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SIR TRAVERS HUMPHREYS

His Career and Cases

BY THE SAME AUTHOR

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Novels

A. B. C.'S TEST CASE
BREAD AND BUTTER
THIS SIDE IDOLATRY
DON CHICAGO
THE COAT OF MANY COLOURS
THE DEAR OLD GENTLEMAN[1]
THE JURY DISAGREE[1]

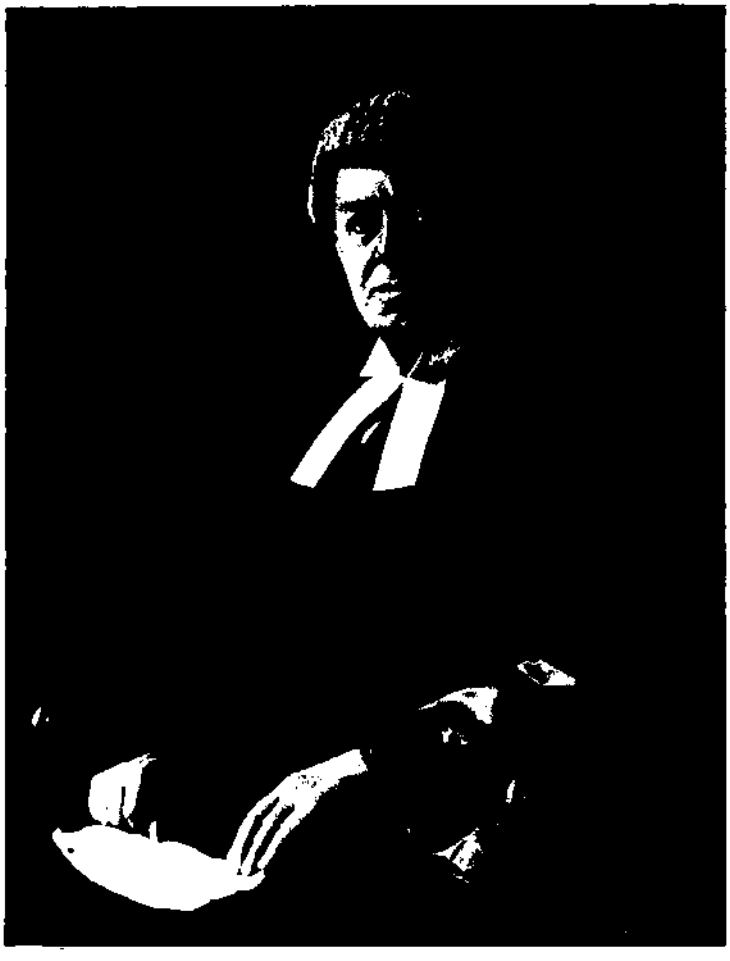
Plays

NURSE CAVELL[2]
THE PITIFUL LOVERS
THEY ALL DO IT[1]

Miscellaneous

THE TRUTH ABOUT SPIRITUALISM
THE NEW WORLD OF CRIME
THROUGH STARVING RUSSIA
IN DENIKIN'S RUSSIA
etc

[1] With George Goodchild [2] With C. S. Forester



SIR TRAVERS HUMPHREYS

Born 4th August 1867, son of Charles Octavius Humphreys, London solicitor; educated Shrewsbury School and Trinity Hall, Cambridge; called to Bar by Inner Temple, 1889; Counsel to Crown at Middlesex and North London Sessions, 1905, at Old Bailey, 1908; Senior Treasury Counsel, 1916; Chief Senior Treasury Counsel, 1924; knighted, 1925; Recorder of Chichester, 1925; Recorder of Cambridge, 1926; a Judge of the High Court 1928.

(Photo: Vandyk.)

SIR TRAVERS HUMPHREYS

His Career and Cases

BY
BECHHOFER ROBERTS
"EPHESIAN"

ILLUSTRATED

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BURY STREET W C 1
LONDON

FIRST PUBLISHED 1936

PRINTED IN GREAT BRITAIN BY
WESTERN PRINTING SERVICES LTD.
BRISTOL

FOREWORD

IN describing the career of Sir Travers Humphreys, I have adopted a method which may at least lay claim to two merits: first, it is sufficiently rare in books of this kind and, secondly, it is, I believe, in character with the man of whom I write. The conventional biography of a successful barrister often confines itself to a handful of spectacular cases, grouped together according to their nature—the murders in one section, the frauds in another, and so on—so that, in general, the reader gets an impression of a series of triumphant appearances in sensational trials, spiced with "duels" with witnesses and "scenes" with Judges. There have, it is true, been one or two notable British advocates and even Judges whose professional life has lent itself to this type of description, but such books offer a most misleading picture of the manner and the methods by which true success is won at the English Bar.

I have, therefore, chosen instead to tell the story of Sir Travers's career in considerable detail and in chronological order. The book begins with his call to the Bar nearly half a century ago, and I have then described his first briefs and his gradual but unfaltering rise to prominence as an advocate, which culminated in his promotion to the post of Chief Treasury Counsel at the Old Bailey, in succession to the late Sir Richard Muir. By that time, of course, his name was continually before the eyes of the public, and a number of notorious trials will be recalled to readers: at this point in the story indeed I have not endeavoured to do more than select a few of them, though some of these—and by no means the least interesting—will probably be unknown to all but professional observers. Then I come to Sir Travers's elevation to the High Court Bench as Mr. Justice Humphreys, and once again the reader will find that, in the life of a Judge, spectacular cases are the exception and not the rule. Without omitting certain trials which are widely known, I have been careful to include a number of others, no less absorbing in themselves and perhaps far more

revealing of Sir Travers Humphreys's methods as a Judge and of the everyday processes of the law.

Thus there will be found in these pages descriptions of nearly a hundred of the more noteworthy cases with which Sir Travers has been concerned, for the prosecution or for the defence or as a Judge, during his crowded and brilliant career.

I have suggested that this method seems to be in keeping with his characteristics: I will go further and say that this is especially the case because Sir Travers, during all his professional life, has represented the very pattern of an English barrister. Three things are necessary for such success: natural ability, strength of body and determination of mind, coupled with honesty, courtesy and industry. All of these qualities Sir Travers possesses. If flashy eccentricities have occasionally brought an advocate into great prominence, they have never won him the esteem of his own profession, such as the subject of this book has always enjoyed.

To realize the truth of this, we have only to summarize the career of a typical successful barrister. He begins as a pupil in chambers, reading the documents of a case on which his master is engaged, looking up precedents, writing notes on them, and then realizing, by what his master does, how and where his own efforts were inadequate or wholly wrong. While a pupil, he is expected to go with his master into Court and there make a note, so that the other may be free to devote his whole mind to the case; sometimes the pupil is left to make a formal application and take a note of the result, or even to carry an unimportant witness through his evidence. He may then receive a small brief in a minor case, or even stumble into something important because the case "won't stand a large fee"; but usually the dribble of briefs begins only after pupilage. When that time is over, the former pupil may indeed, if very fortunate, be invited to "stay on" and devil for the established men; but busy chambers are usually full. As a rule he waits, haunting the courts, devilling for all and sundry (and not forgetting to take advice as to what to avoid, so as not to acquire an undesirable label) until at last reputation begins and practice becomes established. At first he will be the junior in cases of importance, and little used in Court, his chief task being to see that his leader is properly *au fait* with the law and the

facts, since a busy leader rarely has time to look up things for himself. Of course, the junior may sometimes be "left" to do the case, and there is always his own small practice in which he appears "alone." As experience and reputation grow, he is "left" more often and his own cases without a leader increase until at last he is forced into the front rank. But eccentricities, "scenes," "duels" and all the other characteristics popularly ascribed to successful advocates have, it will be seen, no useful part to play.

They have played no part at all in Sir Travers Humphreys's career. As an advocate, he was much too good an actor not to obliterate his own personality in his work: he never figured in scenes or pandered to notoriety: no verbal duels with Judges filled the columns of the Press—and injured his clients' causes. He was always master of the facts with which he was concerned; he knew the law fully, especially the rules of evidence, and he never had any illusions about the strength or weakness of an individual case. He never unduly raised his voice, or bullied witnesses or jury. And so, since he neither antagonized nor sought to trap a witness, he was usually able to get at the truth—or, what is often more important, to show the jury whether the witness was telling the truth. If a witness he questioned became sullen or angry or bewildered, the fault was the witness's, not his. Just as his opening of a case was invariably concise, clear and thoroughly prepared before he went into Court, so his questions would quickly converge to the very heart of the matters which he wished to elucidate. Sir Travers Humphreys never at any time employed advocacy as a means for displaying his personality or for appealing to prejudice in Judge and jury. An old colleague of his has said to me, "Travers Humphreys always struck me as a master of his art; but it all seemed quite natural—until one tried to do it oneself."

So then, just as Sir Travers never used embroidery and never sought by extravagant means or artificial emotion to force a conclusion on a Court, I shall try in this book to let the facts of his career speak for themselves by offering a plain, straightforward, mass outline of his work.

I trust, however, that no lay reader will imagine that there has been anything pedestrian about the career I am picturing. At the Bar the race is to the swift and the battle to the strong. In the

pages that follow there will be found many instances of the startling ingenuity which Sir Travers displayed during the course of his career. I have, for instance, set out in some detail the fascinating strategy with which he managed to lay that arch-rogue, Horatio Bottomley, by the heels at last. Nor would I wish it supposed that the inclusion here of many unfamiliar trials is due to any mere seeking for completeness. On the contrary, while studying Sir Travers's rise to forensic fame, I have found many of his less known cases at least as interesting as the others. The trials of Crippen, Seddon, Browne and Kennedy, Mrs. Rattenbury and Stoner, Roger Casement, Hooley, Oscar Wilde—all these are in the book: but I venture to draw attention to the murder trials of Marjorie Yellow, the Reubens brothers, Mrs. Barney, Chung-Yi-Miao and Colonel Rutherford, and, among the frauds, the Wellings-Peach saga and the trials of "D. S. Windell," Cammi Grizzard, Captain and Mrs. Peel, Sharman, Josephine O'Dare and her gang, and Leopold Harris (about whom I am able to present some hitherto unpublished information), and the exploits of that fantastic personage Martin Sebastian Saldanha, as being fully as interesting studies in criminology as their more familiar neighbours.

In conclusion, I would mention that the responsibility for the book both in matter and in form is wholly mine.

CONTENTS

AND CHIEF TRIALS DESCRIBED

PAGE

FOREWORD v

CHAPTER ONE: 1889–1904 1

Sayers and Barnes — Thorpe — Cloete — Flugel — Oscar Wilde — O'Reilly — Cleobury and Smith — Kitty Byron — Rogers and Wallis — Trubenbach — Weller — Laceby *v.* Lacon.

CHAPTER TWO: 1905-1909 21

Hughes and Wellings — Peach and Fane — Leslie and Webber — Church and Sexton — Lemoine — Hume — Curley — Morris and Marks Reubens — Henry Hess — "D. S. Windell."

CHAPTER THREE: 1910-1911 43

Grimshaw and Higgins — Grizard and Barnett — Crippen — Hutchinson — Ellsome — Jack Johnson and Bombardier Wells.

CHAPTER FOUR: 1911–1913 62

Seddon — Cammi Grizard, Lockett, etc. — Parrott — Arthur Newton — Hooley — Bottomley (first trial).

PAGE

CHAPTER FIVE: 1914–1917 95

Ahlers — Seed and Petersen — Mrs. Woodman — G. J. Smith — Bulteel's Bank — Roger Casement.

CHAPTER SIX: 1918–1922 123

Greenwood — Pemberton Billing — Chatterton — Rutherford — Mrs. Bamberger — Bottomley (second trial).

CHAPTER SEVEN: 1922–1923 . . . 169

Bevan — Bywaters and Thompson — Saldanha — Captain and Mrs. Peel — Tatham — Art O'Brien.

CHAPTER EIGHT: 1924–1926 . . . 195

"Mr. A." (William Cooper Hobbs) — Sharman — Twelve Communists — Boulton's Bank — Hatry.

CHAPTER NINE: 1927 218

Josephine O'Dare — Seymour — Taylor, Leonard, etc. — William Paul — Greyhound Racing Association — Hansen and McCartney — Mayers — Rose — Radford — Rev. Francis Bacon — Browne and Kennedy.

CHAPTER TEN: 1928 247

Lock — Clayton and Stevens — Harold Montagu Lloyd — Chung-Yi-Miao — Baguley.

CHAPTER ELEVEN: 1929–1932 . . . 264

Hollington — Holmyard — Benton — Marjeram — Warne — Harrison — Rouse — Martinucci — Yaroslav Charles — Paterson — Mrs. Barney — Marjorie Yellow.

PAGE

CHAPTER TWELVE: 1933-1936 . . . 291

Theodosios Petrou — Brown — Leopold Harris — Rourke — Cooper *v.* Swadling — Mitcham U.D.C. *v.* Seale — Rose *v.* Ford — Mrs. Rattenbury and Stoner.

LIST OF ILLUSTRATIONS

	TO FACE PAGE
SIR TRAVERS HUMPHREYS	*frontispiece*
"D. S. WINDELL"	40
JACK JOHNSON	58
"TRUTH STRANGER THAN FICTION"	76
SOLICITOR AND SWINDLER	82
MR. TRAVERS HUMPHREYS IN 1918.	124
MR. NOEL PEMBERTON BILLING, M.P.	130
MRS. BAMBERGER AND FRIEND	148
THE FALL OF HORATIO BOTTOMLEY	152
"MR. A"	196
JOSEPHINE O'DARE	218
TWO MURDERERS	242
MR. AND MRS. CHUNG-YI-MIAO	258
"FIRE-BUGS"	312
SIR TRAVERS HUMPHREYS ENTERING THE OLD BAILEY	330

SIR TRAVERS HUMPHREYS

His Career and Cases

CHAPTER ONE

ON Friday, 2nd May, 1828, the attention of most of England—from the Prime Minister, Lord Wellington, to the humblest of George IV's subjects—was centred on the "Cock" public-house in the little Suffolk village of Polstead, half-way between Colchester and Ipswich. Reporters to the number of fifteen (some of them even from London newspapers) sat in the crowded coffee-room of the inn, where the coroner, Mr. Wayman, was to resume his inquest on the body of Maria Marten, which had been found in the Red Barn attached to William Corder's farm in the village. The "Cock" and the space surrounding it were thronged with curious sightseers, eager to assist at proceedings which even to-day, more than a hundred years later, are still portrayed in the evergreen melodrama of *Maria Marten, or The Murder in the Red Barn.*

The proceedings opened with a discussion between the coronor and the journalists as to whether they should be allowed to report the evidence: eventually, "the Coroner remaining determined, every reporter put his book into his pocket, and here the conversation ended."* The first witness was being examined when, "At this period of the proceedings, Mr. Humphreys, a solicitor from London, entered the room, and on behalf of the prisoner, William Corder, applied to the coroner to allow his client to be present to hear the evidence that might be adduced against him, so that, with the assistance of himself, Corder's legal adviser, he might be enabled to put such questions to the witnesses as might tend to exculpate him from the crime with which he stood charged."

The coroner, however, asked Mr. Humphreys to cite a case from the law-books which would show that a person accused of

*From *An Authentic and Faithful History of the Mysterious Murder of Maria Marten, with a Full Development of All the Extraordinary Circumstances which led to the Discovery of her Body in the Red Barn; to Which is added the Trial of William Corder, with an Account of his Execution, Dissection, etc.* By J. Curtis, (London, 1854).

murder had a right to be present at the inquest on the body of the murdered party, and, though Mr. Humphreys promptly did so, "after a desultory conversation he acquiesced in the proposition made by the coroner, namely, that all the depositions should be read in the presence of the prisoner." Later the prisoner, Corder, was brought down from an upper room and heard the depositions of the witnesses read, after which Mr. Humphreys "advised the prisoner to retire and to confide in him for the rest." But at the trial at Bury St. Edmunds in August, Corder had different advisers, the Gray's Inn firm of Appleby and Charnock. Mr. Humphreys had advised him that his intended defence—that Maria Marten had committed suicide—would not be likely to satisfy a jury, and proposed instead that Corder's counsel should endeavour to secure a verdict of manslaughter. The prisoner, Mr. Humphreys suggested, "might say that angry words took place—that the deceased struck him, and that she was levelled in her turn by a blow which proved fatal. Let him not say with what instrument he struck the blow. This appears to be his only chance." Corder and his friends refused to accept this advice, Mr. Humphreys withdrew from the case, informing Corder of this decision in a letter which ended, "I beg you will accept my best wishes for your deliverance." As he anticipated, the jury rejected Corder's preposterous defence, and the prisoner was duly hanged and handed down to posterity as a villain of melodrama.*

This Mr. Humphreys (whom the Judge at the trial described as a "very able solicitor") was the great-great-uncle of Sir Travers Humphreys, whose career is set out in the pages of this book. He was the founder and head of a firm dating from the end of the eighteenth century, Messrs. C. O. Humphreys and Son, and still in existence to-day. For nearly a century and a half it has been known as one of the most reputable firms of London solicitors

* Here is an unpublished anecdote about the Red Barn affair, for which I am indebted to Mr. Roland Burrows, K.C., who had it from the nephew of the man concerned. The Under-Sheriff whose duty it was one morning to be present at Corder's execution was bothered all that day by curious questioners. In the evening he went to see *Macbeth* at a local theatre. He entered his stage-box a little late and was just in time to hear the actor playing Duncan declaim the opening words of the fourth scene: "Is execution done on Cawdor?" Thinking himself addressed, the Under-Sheriff replied testily, "Yes, it is! I saw him hanged this morning, but I won't say another word about it."

especially in regard to criminal cases, and has long acted for the Law Society in cases where it was necessary to instruct a solicitor. Sir Travers's father, Charles Octavius Humphreys, was for many years head of the firm, and held this position when his fourth son, the subject of this book, was born. The last Humphreys in the firm was Sir Travers's elder brother, Robert, a most charming gentleman.

"My client, being just over seventy, is therefore in the very prime of life," said Travers Humphreys, quoting from his favourite author, W. S. Gilbert, when he opened a client's defence at the Guildhall some years ago. It is interesting to note that, on this showing, Sir Travers is to-day entering on his prime, having been born in London on 4th August, 1867. Yet, despite his comparative youth, his career has been one of outstanding achievement. After building up a most successful private practice at the Bar, he became successively a Junior Treasury Counsel and a Senior Treasury Counsel and, at last, chief prosecutor at the Old Bailey: he has sat as Recorder of Chichester and of Cambridge, and is to-day a Judge of the High Court. As prosecuting and defending counsel and as Judge, he has participated in innumerable trials in many courts: indeed, the hundred or so cases to be described here represent only a fraction of one of the busiest, most varied and most remarkable legal careers of our day.

He was educated at Shrewsbury School and at Trinity Hall, Cambridge, where he arrived in 1886. Trinity Hall has always been the great law college of the University, and among his contemporaries were the future Lord Maugham and Lord Justice Romer. Like them, he was a rowing man and participated in 1887 in the greatest rowing triumphs of the college. A fine oar and a judicious stroke, he was crowded out of its first two boats by reason of his light weight, but he stroked the college third boat to the eighth position on the river in the May races: only once before had a third boat got as high, and never since.* In the same year he also stroked the losing University Trial Eight.

* The Trinity Hall first boat in that year included Maugham, now a Lord of Appeal; the second Romer, now a Lord Justice; and the third Humphreys, now a Judge . . . a very appropriate arrangement.

After graduating at Cambridge, he was called to the Bar by the Inner Temple in November 1889, and began work under good auspices.

In the first place, his father, as we have seen, was the head of an old-established and flourishing firm of London solicitors, and it would have been strange if occasional briefs did not come to the barrister son. Secondly, his father's brother-in-law was (the late) Lord Halsbury, who was Lord Chancellor from 1886 to 1905 with only two short breaks, his being the longest tenure of this great office since the time of Lord Eldon. Thirdly, one of Travers Humphreys's uncles was John Peter Grain (incidentally, a brother of Corney Grain, the musical entertainer), a successful advocate of the last quarter of the nineteenth century and the first years of this. And fourthly, the young man was fortunate in entering a set of chambers in the Temple which were becoming distinguished for ability. He went as pupil at 4 Temple Gardens to E. T. E. Besley (afterwards Q.C.), who had just taken farewell of another pupil destined for the highest honours in his profession, Horace Avory; while Humphreys shared a room with a young man who, as Sir Archibald Bodkin, K.C.B., afterwards crowned a brilliant career at the Bar by becoming Director of Public Prosecutions, and who, since his retirement from that post, has acted as Recorder of Dover and Deputy-Chairman of the Devon Quarter Sessions.

Recognizing all these advantages, Travers Humphreys took his luck with both hands, immediately showed himself worthy of it, and went ahead from the first stride.

His first appearance in court was, suitably enough, a family affair. The brief came from his father's firm and he was led by his uncle, J. P. Grain. It is pleasant to note that he was briefed to prosecute at the Old Bailey, a role which he was to fill so very many times in the next forty years. The case—Regina *v.* Sayers and Barnes—came into court on 22nd November, 1889, only a few days after his call to the Bar.

The two prisoners were charged with stealing documents from a solicitor's office, and, if the offence is unusual, the way in which it was discovered was even more surprising. A private detective named Cornwall happened to be transacting some business in a

post office when he saw a barmaid come in and hand a parcel to a man. The man opened it and Cornwall, inquisitively glancing over his shoulder, saw that it contained certain deeds relating to a Mr. Hill's estate in Devonshire. Cornwall followed the man to a public-house and heard him boast that "This job of mine is as good as gold; it's worth thousands of pounds and, when I get the money, I shall cross the pond."

Cornwall at once wrote to Mr. Hill and learned from him that the deeds were supposed to be in charge of Messrs. Henderson and Buckle, a reputable firm of solicitors in Fenchurch Street. He then approached the firm and told them what he had seen and overheard: incredulous at first, they soon found that the documents were missing and set the police on the track of the man whom Cornwall had spotted. His name was Barnes and he was arrested, together with a clerk, Sayers, who, now only in the early thirties, had been in the solicitors' employment for a number of years and held a responsible position in the firm. Sayers admitted that he had allowed his accomplice to take the deeds from the office and, when his house was searched, no fewer than two hundred and twenty other stolen documents were found there. The case for the prosecution was overwhelming and both men were sentenced to five years' penal servitude, Sir Thomas Chambers, the Recorder of London, commenting that, apart from the intrinsic wickedness of the theft, it was calculated to have done untold injury to the reputation and fortunes of the solicitors concerned

This was Travers Humphreys's first and only brief in 1889, but he appeared in the courts several times in the next year, usually with small briefs for the prosecution, but also, on one occasion, for the respondent in a matrimonial dispute, Tollemache *v.* Tollemache. None of these cases, however, possessed much interest except for the parties concerned and, of course, for the young barrister to whom they represented the first steps of the forensic ladder. Much more important in this respect, as it turned out, than these miscellaneous briefs was one from his eldest brother, the late W. H. Humphreys, who, besides being a partner of their father, was also clerk to the Saddlers Company. In this capacity he briefed Travers Humphreys to appear before the City of London bench of licensing justices in support of an application for

a renewal of the license of a public-house, "The Horse and Trumpeter," of which the Saddlers Company were the freeholders.

Travers Humphreys was unsuccessful in this application, but the Company entrusted him with the appeal to a higher court in the following month. The significance of the "Horse and Trumpeter" case—for us, its only significance—is that it launched Humphreys upon a licensing practice which formed a considerable part of his work right up to his very last days as an advocate.

In this specialized and profitable field he came to rival Archibald Bodkin, perhaps the most successful of all licensing advocates. Among the solicitors who began to brief Humphreys in such cases and continued to do so for more than a generation, were Messrs. Crossman and Pritchard, acting for Mann, Crossman and Paulin, the brewers, and Messrs. Young, Jones and Co., representing the City of London Brewery. Another extremely valuable connection began for Humphreys in these days with the Gas, Light and Coke Co., whose solicitors (his father's firm) entrusted him with numberless prosecutions of individuals suspected of fraudulently using gas or failing to pay for it.

Nowadays this type of work is more often conducted in the courts by solicitors than by barristers: it was Travers Humphreys's good fortune to benefit by the older procedure, and his merit to attract a satisfactory proportion of the work. If this type of case did not often bring him into wide notice, it at least kept him busy and gave him constant opportunities to develop his powers as an advocate.

It is not till August 1891, nearly two years after the Sayers and Barnes case, that he was again concerned in a trial worth recording here. This was when, again at the Old Bailey, he helped to prosecute a cashier named George Thorpe for embezzlement.

This man had worked for thirty-five years in Sir Henry Peek's office in Eastcheap, and for the last twelve years had been its head cashier. Suddenly in 1890 he left the office and, without any adequate explanation, boarded a boat for Australia. Now, when cashiers embark on Colonial tours, employers always become restless: the firm overhauled the department of which Thorpe had been in charge and made annoying discoveries. Some of the books had been destroyed; others had been falsified. Securities to the

value of about £15,000 were missing, with £4,000 in cash. Thorpe was arrested and brought back from Australia under the Fugitive Offenders Act, of 1881, placed on trial, prosecuted by Travers Humphreys, found guilty and sentenced by the Recorder to ten years' penal servitude. His offence was sufficiently scandalous for the Recorder at the Old Bailey, before whom and whose predecessors and successors has passed a seemingly endless pageant of human misdoings, to describe it as a quite remarkably bad case.

Humphreys was concerned, for the defence this time, in another outstanding case that year, when he appeared at the Guildhall with his uncle, J. P. Grain, for a man named Laurence Cloete, who was charged with forging transfers of shares in the Simmers and Jack Company, with intent to defraud.

Certain elements in the case resembled the notorious Hatry frauds of a much later date. It was shown that Cloete had abused his position, as the London agent of this South African gold-mining company, to duplicate certain share-certificates and to transfer them to a stockbroker as security for his private debts. The stockbroker sold them and a director of Simmers and Jack, who happened to visit the London office, discovered the fraud. Travers Humphreys and his uncle set up an ingenious plea in extenuation of Cloete's crime. They argued that he was a very busy man, being agent for numerous firms, and left too much responsibility to some of his clerks, one of whom was in the dock, charged jointly with him. Cloete had never intended that the forged certificates should be put into circulation, because he hoped to pay off his debt in time to redeem them, but by an unfortunate succession of accidents they had been sold by the stockbroker. In view of the terrible social penalties which the discovery of his offence would bring on him, the Court was asked to pass a lenient sentence on him. These arguments were so far successful that he received a sentence of only six months' imprisonment, which in the circumstances must be considered a high compliment to his counsel's ability.

Humphreys was again associated with his uncle a few weeks later in prosecuting a woman named Anna Margareta Flugel for an impudent fraud on two well-known shops, Messrs. Wallis of Holborn Circus, and Messrs. Peter Robinson of Oxford Circus.

The case for the prosecution, as presented by Humphreys, was that Flugel went to Wallis's and said that a gentleman living in Crouch End had sent her there to choose a Christmas present for his wife; she selected a coat and other garments of a value of seventeen pounds and instructed the shop to send them instantly to an address in Crouch End in order that her employer could take them in and pay for them. The shop carried out her instructions, and duly received a cheque from the man. Unfortunately for them, the cheque came back from the bank, there being no funds to meet it, and the goods were traced to a pawnbroker's shop. The same fraud was practised on Peter Robinson's to the extent of forty-one pounds. The defence contended that Flugel was the innocent dupe of the man at Crouch End, but the Court thought otherwise and sentenced her to eighteen months' hard labour.

In 1895, after he had been five years at the Bar, Travers Humphreys was briefed in the first of the long series of *causes célèbres* which have made his name so familiar to the public. This case was nothing less sensational than the conflict between Oscar Wilde and the Marquess of Queensberry, which ended in the ruin of the former. Humphreys acted throughout as one of Wilde's counsel.

There is no need to recapitulate the details of this sad and terrible affair except in so far as Travers Humphreys was professionally concerned. It begins with his father, Mr. C. O. Humphreys, appearing at Bow Street police court on Wilde's behalf on 29th March, after which Humphreys himself assisted Sir Edward Clarke at the Old Bailey a week later to open a charge against Lord Queensberry of publishing a false and malicious libel about Wilde. The libel took the form of three words written on a visiting-card of Lord Queensberry's and left with the porter of a club to which Wilde belonged. The contents of the libel, it should be noted, were not so much an accusation of immorality against him as a suggestion that he was posing as an immoral man. The plea put in at the trial by the defence was one of justification, it being alleged by Lord Queensberry that Wilde had solicited various men to commit offences though it was not claimed that these offences had actually been committed.

Wilde had had a brilliant academic career, first at Trinity

College, Dublin, and then at Magdalen College, Oxford, where, besides taking a Double First, he won the Newdigate prize, the highest literary distinction. His father, Sir William Wilde, had been a distinguished Irish surgeon and oculist and held various public positions. After leaving Oxford, Wilde led the æsthetic movement which became the artistic fashion of the 'nineties. At the time of the trial he was a man of thirty-eight, and his house in Tite Street, Chelsea, where he lived with his wife and two sons, was visited by innumerable admirers, among them Lord Alfred Douglas, a son of the Marquess of Queensberry and the wife who had divorced him. Wilde and Lord Queensberry met only once before 1893.

In that year Wilde realized that allegations were being made against him, because a man named Wood approached him with a request for money against the return of certain letters which Wilde had written to Lord Alfred Douglas. Wood declared that he found these in the pockets of some old clothes that Douglas had given him. Wilde gave him fifteen pounds out of consideration, as he explained, for a tale that Wood told him about wanting to go to America and for expenses that Wood had had in getting back the letters from a man who had stolen them. Later, another man, Allen, called on Wilde with a letter and the latter said, "I suppose you have come about my beautiful letter to Lord Alfred Douglas." Allen suggested that a curious construction could be put on the letter, to which Wilde answered characteristically, "Art is rarely intelligible to the criminal classes."

Allen then asserted that he had been offered sixty pounds for the letter by an interested party, and Wilde advised him to accept the offer if only because it was much more than he himself had ever been paid for so short a piece of prose! After this exchange of remarks, Allen turned to simple begging, and Wilde gave him half a sovereign. Shortly afterwards a third would-be blackmailer called on Wilde and, when the latter laughed at his threats, returned him the letter.

At the end of 1893 Lord Queensberry saw his son and Wilde lunching together at the Café Royal in Regent Street. He called on Wilde afterwards and ordered him not to be seen about with Lord Alfred Douglas unless he wanted a thrashing. Wilde's reply

to this was, "The Oscar Wilde rule is to shoot at sight," and he turned Queensberry out of the house. The Marquess revenged himself by sending a bundle of vegetables to be presented to Wilde when the latter's superb comedy, *The Importance of Being Earnest*, was first produced at the St. James's Theatre in 1895, and followed up this infantile insult by leaving at Wilde's club the message upon which the prosecution was brought.

Lord Queensberry was defended by Edward Carson, who cross-examined Wilde at great length. At first Wilde scored off his fellow-Irishman all along the line. He declared that there was no such thing as morality or immorality in literature or other works of art, and that he aimed in his writings neither at good nor at evil but solely at beauty. He sneered at Carson as a dull Philistine, and uttered many brilliant epigrams at his expense. But Carson began to turn the tables when he switched the cross-examination to more personal matters. Wilde admitted that he consorted with a number of young men of varying social status. Of one of them, Taylor, a man of good education, Wilde agreed that his rooms were lit only by candles and that Taylor sometimes burnt incense in them, but, Wilde added amid laughter, the only really unusual thing about Taylor's rooms was the good taste displayed in furnishing them. He admitted that he had sometimes dined with Taylor in private rooms at restaurants. Then Carson introduced the name of a young valet named Parker, who had also dined in private rooms with Wilde. Wilde explained that he had given him dinner just for the pleasure of consorting with a man so young, so bright, so happy, so careless and so original. As for Parker's being a valet, Wilde explained that he was not interested in social distinctions: to him youth was so wonderful that he would sooner talk for half an hour to Parker than be cross-examined all day by Edward Carson!

Carson, undeterred by these jibes, kept up the attack hour after hour. He forced Wilde to admit friendship with several other young men and to agree that he had given them food and presents, usually cigarette-cases, though he emphatically denied the suggestions of immorality. But Carson established beyond doubt that, while all these men were young and needy, none of them could be regarded as educated or as claiming any sort of

social or intellectual equality with their host. In any case, Carson announced, he proposed to put some of them in the witness-box for the defence so that the Court could judge for itself why Wilde had patronized them. Before this could be done, however, Sir Edward Clarke, who was appearing with Humphreys for Wilde, made a statement. In view of the material now before the Court, he said, he thought that the jury might perhaps be inclined to believe that the defendant, Lord Queensberry, was justified in his accusation against Wilde, which, it must be remembered, went no further than to charge Wilde with *posing* as an immoral man. For this reason, Sir Edward Clarke went on, he thought it would be best if he interposed at once and submitted to the defence's plea of Not Guilty. Carson said he would be satisfied with this, provided that it were understood to mean that the Marquess's plea of justification had been upheld: this question was put to the jury, who found that justification was proved and that the libel had been published for the public benefit.

After this sudden collapse of his case Wilde had a consultation with Sir Edward Clarke and Humphreys, while Lord Queensberry's solicitors sent the papers of the trial to the Public Prosecutor. Wilde went to lunch with Lord Alfred Douglas and two other friends; then he drove to his bank and drew out a large sum of money, as if intending to flee the country before action was taken against him. Lord Queensberry himself sent a note to Wilde saying, "If the country allows you to leave, all the better for the country; but, if you take my son with you, I will follow you wherever you go and shoot you." Wilde did not leave, however, though the police held their hand until the last boat-train for the Continent had left in the evening. Only then did they arrest him in a Chelsea tavern on a charge of committing acts of gross indecency and of conspiring with Taylor—one of the youths mentioned in the previous proceedings—to procure their commission.

Humphreys appeared at Bow Street next morning to apply for bail for Wilde who, he said, had known in advance that a warrant for his arrest was being applied for but had made no attempt to leave the country. The application failed, and bail was refused.

Four days later Humphreys appeared for him in the same court

to conduct Wilde's defence, led by Sir Edward Clarke, but the case was adjourned for a week. Then Humphreys, this time appearing alone, asked once more for bail for Wilde: it was again refused, and both prisoners were committed for trial at the Old Bailey.

The case for the prosecution opened there on 26th April. It was in the hands of C. F. Gill and Horace Avory, and consisted largely of the shorthand notes of the evidence and cross-examination at the trial brought by Wilde against Lord Queensberry. In the course of the proceedings Gill asked leave to withdraw the conspiracy charge, and Sir Edward Clarke commented bitterly on the course taken by the prosecution in putting in this charge. He also complained, with considerable reason, that Wilde was being judged on his books, particularly *The Picture of Dorian Gray*, rather than on the material evidence. This point was put to the jury very clearly by Mr. Justice Charles (the father of the present Judge) in his summing up, when he warned the jury that, though an imaginative writer might put a picture of a consummate villain into his book and make that villain say words revolting to the readers, he must not be saddled with the faults of the character whom his imagination had conceived. In this case, the Judge added, the prosecution had challenged Wilde upon theories contained in a periodical with which his only link was that it had published two pages of his writings, and also upon his invented character Dorian Gray, a man without principles in relation to young men.

The jury retired for three and a half hours but, being unable to agree, were discharged. Wilde now secured bail, but he and Taylor were put on trial again a month later, and this time the new jury, after considerable deliberation, found both men guilty. Mr. Justice Wills sentenced them to two years' imprisonment with hard labour, the severest sentence which the law allowed, and remarked that in his opinion this sentence was totally inadequate to the offences, a comment which failed to take into consideration its effect upon Wilde.

Travers Humphreys was brought into the limelight again a few months later when he was briefed to defend a certain O'Reilly on a charge of obtaining money by false pretences. This is a

common enough charge and O'Reilly's methods were conventional in their simplicity; he advertised goods for sale in many newspapers, pocketed the postal orders sent him by the public, and sent nothing in return. What gave the case its chief interest, however, was the nature of the goods he offered, among them being a "Mysterious Manx Mannikin."

This was described by O'Reilly in his advertisements as being "really alive"; so that, if it were pricked, blood ran from it and it obviously suffered pain. Professor Huxley, the advertisement continued, had owned one of these mannikins and held the theory that they originated in the Garden of Eden as contemporaries of the human species. Ladies, it was also said, enjoyed carrying the mannikins about with them, because the little creatures developed a great affection for their owners and refused to be parted from them. It is hardly surprising that many members of the public sent money to O'Reilly in the expectation of owning one of these affectionate if sub-human pets. Nor is it surprising that he failed to deliver the goods. When the police found him, after searching for him at various accommodation addresses in the Edgware Road and at Brighton, he excused himself by saying that the orders for mannikins were coming in so fast that he could not cope with them. What precisely were the "Mysterious Manx Mannikins," the police wished to know, apart from other more offensive questions. The public also wished to know, and it was left for Humphreys, defending O'Reilly, to satisfy the universal curiosity.

He asked the police-officer who had arrested the prisoner if he had discovered the real nature of the mannikins. The officer said that he had, because O'Reilly had revealed the secret to him. Thereupon, at Humphreys's suggestion, the policeman solemnly demonstrated the anatomy of the little creatures. He produced six pieces of wax, in the form of two eyes, two ears, a nose and a tongue, and placed these expertly between his fingers. A small hair wig then went over his closed fist, and two handkerchiefs covered his fingers. A Mysterious Manx Mannikin thus being shaped, the policeman followed Humphrey's directions and manipulated his fingers so as to produce grotesque faces out of the apparatus. The effect of this, though it could hardly be held to carry out the claims made in the advertisements, or to substantiate Professor

Huxley's alleged theory, was at least to amuse the Court and so to modify its view of O'Reilly's crime. Unfortunately, however, another of his advertisements offered to give away a thousand cameras to the first applicants who sent half a crown to cover carriage and overhead costs—and cameras were expensive articles in those days! The defence, therefore, was not wholly successful and O'Reilly went to jail.

There was a sensational dispute in the 'nineties between Earl Russell and his wife's mother, Lady Scott, which culminated in his prosecuting her and others for criminal libel. Mr. Justice Hawkins heard the case: Frank Lockwood and Charles Mathews appeared for the prosecutor, while Marshall Hall represented three of the defendants. Mathews had suddenly to leave the court for an operation, and in his absence Travers Humphreys was brought in to take a note of the proceedings for him. This was, however, his only part in the case, and so I shall not refer to it further.

After these incursions into the public eye, he turned once more to the more humdrum routine of licensing and gas cases, with a sprinkling of comparatively unimportant criminal work. His next case worthy of attention here was perhaps the prosecution of a solicitor, Christopher Cleobury, and a commercial traveller named Smith for conspiracy to defraud and, in respect of the latter, for obtaining money under false pretences. The trial took place at the Old Bailey in January 1901, and Travers Humphreys was once again led by his uncle, J. P. Grain.

It was a simple but ingenious fraud. Cleobury and Smith set up in an office in Cheapside as "The United Kingdom Enquiry and Trade Protection Association," a title which does not lack sonority. Smith then called on various tradesmen and told them that the Association had been formed for the purpose of collecting difficult debts and that, to become members, all they had to do was to sign their names on a slip of paper. He asked for no fee or subscription and, not unnaturally, soon collected a large number of signatures. Then, alas, his attitude towards the tradesmen changed. He either called on other members of their firms and demanded a guinea subscription, or—presumably in the case of one-man firms—just wrote for it.

If the subscription were not forthcoming, Cleobury, who was a

solicitor, wrote to the recalcitrants explaining that the slip of paper they had signed included a promise to pay, and threatening them with legal proceedings if the Association's costs were not immediately met. It came out in evidence that Cleobury, though a solicitor, acted only as Smith's clerk and, indeed, received no more than a clerk's wages of two pounds a week. Smith in defence claimed that the Association was a genuine one and did genuine business, but his claim was somewhat impaired by the fact that, out of 1,100 names on its books, no fewer than six hundred disputed their membership.

The jury found both men guilty, but strongly recommended Cleobury to mercy as Smith's tool, a recommendation in which Humphreys and his uncle concurred. While Smith, therefore, was sentenced to eighteen months' imprisonment with hard labour, Cleobury got off lightly with six months in the second division.

In the following year, 1902, Humphreys appeared in his first big murder case, the trial of Emma (better known as Kitty) Byron at the Old Bailey before Mr. Justice Darling for the murder of her lover, a stockbroker named Reginald Baker. The case excited much interest, and Kitty Byron was greatly pitied. Humphreys appeared to defend her, led by Henry Dickens, the novelist's son who was later appointed Common Serjeant at the Old Bailey. Against them for the prosecution were Charles Mathews and Archibald Bodkin, a very strong team.

Since Travers Humphreys and Bodkin were in the same chambers, it may be well to mention that their opposition in court was by no means unusual. It frequently happens that friends in chambers are briefed on opposite sides in the same case; a client, however, need not fear that such an event will lead to his own counsel being too considerate to the other side; on the contrary, each barrister is out to overcome the other, though the occasional bitter exchanges in court between them is rarely likely to interfere with their future amity.

A pitiable story came out in evidence. Kitty Byron, a dressmaker of twenty-four, had been living for some months with Baker, who incidentally was a married man. He drank heavily and often ill-treated her: they quarrelled a great deal. One day

they disputed so noisily that their landlady gave them notice to go, but Kitty apologized to her and begged her to let them stay. She confided to the landlady that Baker and his wife were to be divorced next week so that he could marry his mistress, but asked her not to tell Baker that she knew this, for fear of provoking a violent outburst from him. The landlady assured Kitty that Baker did not really care for her and had said insulting things about her, which things she was unkind enough to repeat; the wretched girl then burst into tears and said she would leave Baker.

A little later in the morning, still very excited, she left the house and went down to the City, where Baker was working. On the way she bought a knife which, she told the shopkeeper, must be either long or strong. He offered to wrap it up for her, but she chose to take it away in her muff. From Lombard Street Post Office she sent Baker an express letter, but the messenger boy could not find him and brought it back. She sent the boy off again, and this time he found Baker, who came to the post office with him. The officials there had noticed Kitty's excitement and were watching her; they overheard her and Baker disputing who should pay an extra sum owing on the express letter, and they saw them go out together. On the steps of the post office she drew the knife from her muff and struck him with it; he drew away from her, but she followed him up and struck him two more blows, from which he at once died. Then she flung herself on his body, crying, "Let me kiss my Reggie!"

When the police arrived, she first admitted that she had killed her lover, but afterwards declared that she had bought the knife only to wound and not to kill him.

The defence had to be based largely on an appeal to the sympathy of the jury. Mr. Dickens, indeed, reminded them that the court in which they sat, and which was soon to be demolished to make room for a new Old Bailey, had witnessed many terrible scenes and heard many tragic stories, but he doubted if they had been so piteous as the spectacle of this unhappy girl, hardly more than a child, who waited to hear from their lips whether she was to live or die. The jury could not but find her guilty, but recommended her to mercy in the strongest possible terms. She was eventually reprieved.

Travers Humphreys was soon led again by Henry Dickens in a

much longer but less sensational trial. It lasted no fewer than fourteen days, and in it seven defendants were charged on numerous counts of conspiring to obtain money, securities and credit by false pretences. They were two produce-brokers named Rogers, of Mincing Lane; two provision merchants named Wallis; two general and colonial merchants of Leadenhall Street named Ransome, and another man named Rolls Short. Humphreys and Dickens defended the two Wallises. The prosecution alleged that the prisoners, finding their business on the verge of insolvency, had conspired together to obtain money to save the situation; and that, to this end, they had arranged a system of exchange cheques, obtained loans from insurance companies on worthless security, received advances on over-valued goods, and discounted accommodation bills. The defence was a denial of all the charges.

The Recorder, who tried the case, admitted that it was the most difficult that he had had to deal with in thirty years' experience. Its details are certainly much too complicated and technical to set out here, and the most that need be said is that Humphreys's defence was so far successful that both his clients were acquitted on all charges. His handling of the case was thus of considerable value to him in his career.

He won more laurels by another appearance for the defence shortly afterwards at the Old Bailey.

Gustave Ludwig Trubenbach was tried there on a charge of libel against Adolph Rettich. The redoubtable Marshall Hall appeared for the prosecutor, who was a large shareholder in the Newland (Griqualand West) Diamond Company, of which the defendant had been the managing director. The defence put forward a plea of justification and, to their natural satisfaction, the plaintiff refused to go into the witness-box and expose himself to cross-examination. As a result, the prisoner, though found guilty, was sentenced to only three days' imprisonment, which meant his immediate discharge.

Travers Humphreys was not quite so successful in another trial which excited considerable public interest. The fault, however, was not his, for his client had a very bad case and pleaded guilty from the outset.

He was a young man of good family and education named

Weller, who found himself, as such young men often do, out of a job. Meeting an elderly woman with a certain amount of capital, Mrs. Murphy, Weller set himself the task of securing as much as possible of that capital for himself. He told her that he was a wealthy man and a director of a motor-car company, a trade which in 1903 was entering upon a period of great prosperity. Mrs. Murphy reciprocated by telling him that her brother was connected with a company in Paris, and Weller generously hinted that, if this company were sound, he would feel inclined to invest £5,000 in it. The conversation having thus taken an appropriate course, Mrs. Murphy said that she too had money to invest, and Weller offered her his disinterested advice.

This took the form of suggesting that she should entrust the money to him, in order that he might buy her some shares in a mining company about which a rich uncle of his had just cabled him confidential news. So confidential was the cable that he was not even permitted to disclose the name of the mine, but he assured his protégée that, even if things went wrong with it, his uncle would not allow him or Mrs. Murphy to lose any of their money. She then gave him a thousand pounds to buy shares in the company, and followed this up with an equal sum. He offered to obtain for her yet another thousand pounds' worth of shares, but to their mutual regret she could give him only eight hundred pounds more.

Later she grew suspicious and consulted her solicitors, who made inquiries and interviewed Weller. They soon found that, as might be anticipated, he had not invested the money for her but had spent it on himself. He then left for Egypt, because, the defence explained on his behalf, he had been shocked and disappointed to discover that his rich uncle had no intention of paying back to Mrs. Murphy the money of which she had been swindled. The defence also urged that Weller's liberal upbringing and contact with rich relatives, combined with a regrettable passion for display, had led him into extravagant habits and so lured him into crime. The Recorder agreed with this argument only to the extent of commenting that Weller's education and connections made his behaviour more discreditable, but as the sentence was not more than fifteen months' hard labour, it may be that Humphreys felt that his efforts were not in vain.

I have said that the most profitable side of his practice in these days lay in licensing cases, and it will be apposite to round off this account of his beginnings at the Bar with a reference to the case of Laceby *v.* Lacon, which gave him his first brief in the highest tribunal of the land, the House of Lords. The story, curious in itself, will serve to show that even a licensing case has points of public interest.

Laceby was the holder of an "off"-licence for a public-house called the "Five Alls," in the Battersea Park Road, which licence included the cellar, but only the cellar, of the next-door house, No. 2 Abercrombie Street. The reason for including this cellar was that the "Five Alls" was rather cramped for storage. At the general annual licensing meeting of the Wandsworth justices in March 1897, Laceby applied for a renewal of the two licences and gave in the proper notices; no one opposed these applications. But he also applied for an entirely new off-licence for the whole of No. 2 Abercrombie Street, and it should be observed, in view of what followed, that this application was for a new licence and not for a removal of either of the old licences to the whole of No. 2 Abercrombie Street. The justices asked him if, in the event of his receiving this new licence, he would give up the licence for the "Five Alls" and he agreed to do so. The justices then adjourned to view the proposed new premises, but, when their next meeting took place, Messrs. Lacon, the brewers who were the lessors of the "Five Alls," opposed his application and Humphreys appeared on their behalf. Messrs. Lacon naturally did not wish to lose the trade and goodwill of the "Five Alls."

The justices, however, stated that, having inspected the two houses, they were disposed to grant the application for the new licence in respect of No. 2 Abercrombie Street, since in their opinion the "Five Alls" was too small to meet the needs of a thirsty neighbourhood. They therefore granted Laceby's application on condition that he surrendered the licence for the "Five Alls," which he undertook to do.

The brewers then took the matter to the Queen's Bench, where Humphreys was led by Lawson Walton, Q.C., who afterwards became Attorney-General. They argued that the justices had acted in error, inasmuch as they had no power to make an

order of this kind because it was in effect a removal order, which required, as a preliminary, that notice should be given to the lessors, his clients, and their consent obtained, neither of which requirements had been met. He pointed out that Laceby had clearly intended all along to give up the "Five Alls" but had made his application in a devious way in order to try to escape the lessors' notice. Humphreys reminded the Court that a publican must reside in the place for which he asks a licence to sell beer and, since Laceby obviously could not live in both houses at once, he would have to surrender his old residence at the "Five Alls" to qualify for a licence at the new place. Therefore, the effect of his manœuvres was to get a removal order without going through the proper formalities.

Laceby's counsel, F. A. Bosanquet, Q.C. (afterwards Common Serjeant from 1900 to 1918) argued, on the other hand, that everything was in order, that the justices had absolute discretion in the granting of licences, and that, though in country districts the surrender of one licence is generally required before the granting of another one, this point might be waived; thus the justices could grant the new licence and refuse to renew the old one, without requiring from the applicant any of the formalities which accompanied an application for a removal order.

The Queen's Bench found in Humphreys's favour, and Laceby appealed to the Court of Appeal, which also decided for the brewers. Then Laceby appealed to the House of Lords. This Court gave judgment in his favour in March 1899, two years after the beginning of the case, on the grounds that, while the transaction might have the same effect as a removal, the justices had nevertheless acted properly and within their legal powers.

There is a sequel to the case, which shows how strongly it has remained in Travers Humphreys's memory. Thirty-six years later, in 1935, he was trying the case of Nash *v.* Stevenson Transport Co. as Mr. Justice Humphreys. In the course of his judgment he referred to the Laceby case although neither of the parties to the dispute he was trying had raised it in their arguments. He quoted from the judgments of two of the law Lords who had ruled against him in the earlier case, Lord Morris and Lord Watson, and based his decision on their rulings.

CHAPTER TWO

AUGUST 1905 is one of the turning-points in Travers Humphreys's career. He was thirty-eight and had been a barrister for fifteen years, during which time, as we have seen, he had built up a considerable private practice and become recognized as one of the outstanding younger men at the Bar. He was now offered a nomination as "Treasury Counsel" at the Middlesex Sessions.

The term "Treasury Counsel" is technically incorrect—"Counsel to the Crown" is truer—but is usually employed. Treasury Counsel are barristers nominated by the Attorney-General to hold briefs of the Director of Public Prosecutions (who used to be the solicitor to the Treasury—hence the term) at the Old Bailey and the Middlesex and London Sessions. The nomination does not amount to an exclusive retainer, and Treasury Counsel are free to accept briefs and even to appear for the defence in cases initiated by the Director of Public Prosecutions if they are not called on for the prosecution. The position is prized largely for the prestige it gives, since counsel so nominated are those who have admittedly won their spurs. Indeed, the work is often onerous and comparatively ill-paid, while, so long as a man remains a Treasury Counsel, he cannot apply for silk and thus he deprives himself of some of the more remunerative opportunities of his profession. (He may, however, resign his appointment and take silk: this has been done by Sir Harry Poland, Sir Charles Gill, Sir Horace Avory, Mr. Roland Oliver, and Mr. Cecil Whiteley, the present Common Serjeant—exceptions with exceptional qualifications.) On the other hand, a career as Treasury Counsel often leads to police magistracies and to more important judicial posts on the criminal side.

Travers Humphreys accepted the nomination and, in view of the distinctions to which it has led him, we may presume that he has never had cause to regret it. He was a Treasury Counsel at the

Sessions for three years and was then promoted to the Old Bailey, promotion which, though usual, is not automatic, since the Attorney-General has full discretion. In 1908, then, Humphreys became one of the Treasury Counsel at the Old Bailey, of whom there are six, three senior and three junior: promotion is then by seniority, and, as we shall see, he eventually became the chief Senior Treasury Counsel there.

There was, in any case, a growing tradition of such service in his chambers. His first colleague, Sir Archibald Bodkin, was a Treasury Counsel for many years; and, after Travers Humphreys, we find in his chambers others in the persons of Roland Oliver, G. D. Roberts, and Sir Travers's son, Christmas Humphreys. It may be said that this succession has helped greatly to give both stability and distinction to the Old Bailey Bar, which, a generation ago, was perhaps the least admired of all sections of the profession: as a central link in the chain, Travers Humphreys has a special importance. It may be mentioned that, with his new post, he engaged a new clerk, Mr. J. W. Hollis, a well-known personality in legal circles who remained with him for no fewer than twenty-three years and is to-day still Sir Henry Curtis-Bennett's senior clerk.

To return to 1905. Travers Humphreys's two most noteworthy briefs in the first six months as a Treasury Counsel both happened to be private briefs for the defence.

The first of these was to appear at the Old Bailey in October 1905 to defend a woman, Mabel Hughes, who was charged with two other prisoners with forging the Bishop of London's signature to a cheque for £150. Her accomplices were indicted as Edward and Maud Willing, though in fact the former's name was Wellings and the latter was not married to him. There was, however, a certain family relationship between the parties, for Mrs. Hughes was the mother of Wellings's brother's wife, while "Maud Willing" a former cook at the Eccentric Club, was living with Edward Wellings. The prosecution alleged that Mrs. Hughes, who was a clergyman's widow and a notorious writer of begging letters, had written to the Bishop for help and received a signed reply from him, which she turned over to Wellings in order that he should learn to copy the Bishop's signature. They then obtained a cheque

from his cheque-book and forged it for £150. To minimize the risk of arrest if the forgery were detected at the bank, they hit upon an ingenious scheme which has since been widely copied by other criminals. They hired a messenger-boy and sent him to the bank with the cheque; his orders were that after he had cashed it, he should go to a shop where one of the forgers had ordered an article, pay for it with part of the money and bring it to a hotel where they were waiting for him. Thus, they were able to watch the boy at all stages of his journey and so to make reasonably sure that the fraud had been successful.

Unfortunately for them, the police were put on their track by an anonymous letter and they were arrested. The police, incidentally, regarded the Bishop's cheque as only one of a vast number of similar frauds which they were suspected of carrying out. The case against Wellings and the other prisoner was so clear that they thought fit to plead guilty, but Mrs. Hughes pleaded not guilty and instructed Humphreys to argue on her behalf that she had been an innocent participant in the affair and had no idea that Wellings would copy the Bishop's signature for fraudulent purposes. The jury did not accept this story, and Mrs. Hughes was sent to three years' penal servitude. Since, however, Wellings went to jail for seven years, and the other prisoner for five, it may be that Mrs. Hughes's defence was worth while.

The episode did not end with their conviction. Far from it: for Wellings decided that the anonymous letter to Scotland Yard which had led to his conviction was written by a former accomplice, Philip Peach, whom he now betrayed to the police, claiming indeed that Peach was the actual forger of the Bishop's cheque. The police arrested Peach, together with a former officer in the Rifle Brigade, Captain Fane, and put them on trial for another and more serious forgery in which Wellings was also concerned. This time Humphreys was briefed to defend Peach.

The prosecution's story was that Fane, who claimed to be an innocent party to the affair, had written to a wealthy Leeds mine-owner of his acquaintance, Colonel Gascoigne, asking him to subscribe to a fund for an old soldier servant. The Colonel sent a small cheque, which Fane handed on to Wellings together with a couple of cheque-forms from the Naval and Military Club, of

which both Fane and Gascoigne were members. Wellings in turn passed them on to Peach, and he forged two cheques in the Colonel's name, each for £900. One of these was successfully cashed in London by the messenger-boy device, but the other went wrong at Leeds by a ridiculous misunderstanding. One of the gang had ordered some clothes as the olive-branch which the messenger-boy was to bring back to the forger's rendezvous: when the boy reached the shop, the tailor explained that the clothes were not quite ready, and the boy came out without them—which so alarmed the watchers that they decamped to London without the money.

Owing to Colonel Gascoigne's death immediately after these events, the fraud was not suspected until Wellings in jail gave it away. Fane's pretence of innocence was destroyed by the discovery to incriminating telegrams which he had sent from Switzerland to other members of the gang, and though it is most probable that he was at first an unwilling participant in the affair and was brought into it by threats of blackmail—"I know that brute Wellings to my cost," he told the police when they came to arrest him—he was given the same severe sentence as Peach, seven years' penal servitued. We shall meet Peach again in a year or two, in connection with yet another exploit of the cheque-forgers who were so busy at this time.

The other outstanding defence which Travers Humphreys conducted in 1905 was in a curious and complicated affair popularly known as the "Sparking-plug Fraud."

Two men, Leslie and Webber, were charged at the Old Bailey with conspiring by false pretences to obtain electrical appliances valued at £30,000 from various dealers and tradesmen. Webber was charged also with obtaining credit by false pretences. He was defended by Humphreys, who was led by Henry Dickens; Charles Mathews and Archibald Bodkin appeared against him. There were two other minor defendants, and the case lasted no fewer than nine days.

It appeared that Leslie had approached the various victims of the fraud and placed a number of orders for electrical equipment in Webber's name: the goods were to be sent to the Grand Theatre, Fulham, where, according to Leslie's story, Webber was carrying out extensive alterations to the stage lighting. So extensive were

these changes that the orders included 40,000 sparking-plugs, 7,000 incandescent lamps, 1,000 special plugs costing about fifty shillings each, and several miles of electric wire and cabling: it is only fair to the tradesmen to point out that this colossal contract was divided among a large number of them. Even so, one of the larger suppliers, before executing the order, consulted several Trade Protection societies, who reported to him that they had made inquiries and found Webber to be an honest and reliable person.* It was shown in evidence, however, that Webber's business with the Grand Theatre—which is a small one—had never exceeded a value of about £250 a year and was mainly for minor plumbing work.

At last the tradesmen grew suspicious. One of them, who had supplied £700 worth of goods, called on Webber, who assured him that all the goods were still at the theatre but refused to take his creditor there, on the ground that the whole business was secret, as it certainly was. But, when experts visited the theatre during the preparation of the case, they found only an infinitesimal portion of the goods there.

Webber's defence, as set out by Humphreys, was that he was an honest business-man duped by Leslie, who had come to him with forged letters from the theatre authorizing the placing of the orders. He had wanted to inspect the goods, but Leslie had not allowed him to do so, saying that they were not yet ready for inspection. Webber did not explain, however, how he reconciled the enormous orders with the requirements of a small theatre, while the evidence of the theatre doorkeeper showed that he had in fact frequently visited it and so must have known that the goods which were arriving were far in excess of any reasonable needs. Webber further claimed that, far from benefiting by the swindle, he was now a bankrupt and faced with the bills for the £30,000 worth of goods supplied. As for the additional charge of obtaining credit by false pretences, he explained that he had anticipated being able to borrow money on the strength of the vast accession of business which Leslie had brought him.

* I am reminded that a friend of mine, who wished a few years ago to float his business as a public company, was strongly advised by one of the principal London banks to put the matter in the hands of—Clarence Hatry! In both cases, of course, there had as yet been no grounds for suspicion.

The jury decided against him and the Recorder gave him the same sentence as Leslie, five years' penal servitude. As for the missing goods, most were never found, but the police collected some 4,000 lamps, four miles of flexible wire and a mile of cable from a Putney garage where Leslie kept three motor-cars. Electrical equipment must have been very cheap that year, for people who knew where to buy it!

In January 1908, Travers Humphreys was promoted to act as a Treasury Counsel at the Old Bailey, a role he was to fill so prominently for the next twenty years.

His first case there for the Crown was in connection with certain incidents appearing to reflect grave discredit on members of the police force.

The trouble began with a street riot off the Harrow Road on the night of August Bank Holiday, 1907. At about one o'clock in the morning, two policemen, P.C. Adams and P.C. Jenkin, were walking their beat and entered Cirencester Street, where they found some seventy people creating a disturbance and using bad language. They decided that the chief offender was a man named Howard, who was extremely drunk, and they took him into custody. He became violent and, so the policemen said, an attempt to rescue him was made by two other men, a horsekeeper named Church and a coachman named Sexton—a pleasant coincidence of names. The police managed to get Howard to the cells, and then went back and arrested Church and Sexton, who were convicted next day at the police court of obstructing the police.

Then a society calling itself "The Police and Public Vigilance Association" took up the cudgels for Church and Sexton and accused the two policemen of perjury. The policemen were put in the dock at the Old Bailey, P.C. Adams being tried first. Church, giving evidence against them, swore that he was at home in his bedroom when Adams entered, brutally assaulted him with a truncheon, and carried him off without the slightest reason to the police station. His wife, Beatrice Church, corroborated this story, also on oath. Sexton too swore that he had not been concerned with any attempt to rescue Howard but had merely gone along to the police station to bail out a friend; there, he said, he was maltreated by the police and wrongfully arrested and charged.

Both men swore that the evidence on which they were convicted at the police court was a series of falsehoods invented by the two wicked constables.

Against this, however, several witnesses stated that the two men had tried to rescue their drunken friend and had afterwards been arrested in the midst of a rowdy crowd in the same street. P.C. Jenkins, called as a witness by his fellow-constable, denied that Church was struck or ill-treated by either of them, while the inspector at the police station swore that neither Church nor Sexton showed signs of ill-treatment when they were brought in or had complained of it. After a long hearing, P.C. Adams was acquitted, the charge against P.C. Jenkins was dropped, and Church, Mrs. Church and Sexton were charged with wilful perjury.

Humphreys prosecuted, and much of the evidence was, of course, identical with that given when the policeman was on trial. Interesting new light on the case was presented by a Poor Law relieving officer, who stated that Church had applied to him for a loan after the incidents and had explained that, according to the secretary of the Police and Public Vigilance Association, he might expect to receive forty or fifty pounds compensation for his wrongful arrest and conviction. The prisoners asked for a remand, but this was opposed by Humphreys, who declared that his witnesses were being interfered with by friends of the accused men and two of them had already been assaulted for daring to give evidence. In the end the prisoners were all given nine months' hard labour for perjury of a gross and malicious description; their sentence would have been heavier, had not the Common Serjeant decided that they were "tools in the hands of more influential persons." Thus one more sensational accusation of police cruelty and misbehaviour was exposed as a mare's nest.

A few weeks later Travers Humphreys was concerned in one of those diamond-making frauds which are the despair of the authorities in every country. A French engineer from Montmartre, Lemoine, claimed to be able to make diamonds by a secret process and interested Sir Julius Wernher, a South African millionaire resident in London. Lemoine solemnly performed an experiment before the millionaire, producing a diamond from a crucible and,

lived, in a state of wild confusion. The door between the two rooms had obviously been forced open with a poker, and the window from which Watts had fallen was open at the bottom. When he charged Curley with murdering his wife, the man replied, "She's not my wife; her name is Watts," and indignantly denied that he had thrown her out of the window. He had, he admitted, thrown a poker at her: she had then called for the police and threatened to jump out of the window. Whereupon, said Curley, he remarked, "Please yourself!" and she jumped.

Evidence was given that the prisoner and Watts used to drink heavily on Saturday nights and quarrel, though earlier on the Saturday night when she died they had seemed very friendly. However, the usual quarrel came when she wanted to go out for more beer, and Curley told her to go to bed; he locked her in her room so that she could not fetch the beer. A man living on the floor below them, who was engaged in the rare trade of helmet-making, said that he heard Watts screaming to be let out: after this he heard her shouting at the window, and then her body crashed into the yard. The only witness of the actual occurrence was Watts's small daughter, but Travers Humphreys said he would not call her because, though she was trying to tell the truth, her statements varied so widely that no jury ought to be asked to act on them.

The prosecution, he explained, were not saying that Curley had thrown the woman out of the window but that he was responsible for her jumping out of it. The question was: Did Watts jump to avoid his assault—in which case he would be guilty of murder —or did she fall accidentally when calling for help, in which case the verdict might be one of manslaughter?

Mr. Justice Phillimore, summing up, said that the woman might have thrown herself out in desperation, or might have inclined to suicide from temper or the effects of drink or even from a desire to involve the man in trouble. To make Curley liable for murder, the Judge pointed out, Watts must have thrown herself out of the window in order to escape him, having a well-grounded fear of violence or further violence at his hands. To make him liable for manslaughter, she must have gone to the window to call for help or to get as far away from him as she could, again

from well-founded fears of his violence, and then have accidentally fallen.

The jury, faced with these alternatives, found Curley guilty of manslaughter. The Judge sentenced him to eight years' penal servitude, remarking in explanation of this severe sentence that it was merciful for Curley that the jury had not taken a worse view of the matter.

Travers Humphreys also prosecuted in a very notorious murder trial in the early part of 1909, when two Whitechapel costermongers, Morris Reubens and Marks Reubens, brothers aged twenty-three and twenty-two respectively, were charged at the Old Bailey before Mr. Justice Jelf with murdering a ship's engineer named Sproull or Sprowell. Two prostitutes who lived under their protection, to use an ambiguous phrase, Emily Allen and Ellen Stevens (or Brooks) were charged with them, but no evidence was offered against either woman, the prosecution preferring to call Allen as a witness, while Stevens was admitted to be dead drunk at the time of the crime. Both women were therefore discharged at the outset of the trial.

It was a particularly sordid crime, of a type which in those days was far from uncommon in the East End of London. The women had met Sproull and a fellow-officer, who had just left their ship after a long voyage, at Liverpool Street one evening and taken them home to a low lodging-house in Rupert Street, Whitechapel: all four were very drunk. After a time a dispute occurred about money, and the two Reubens brothers, who had been watching from the street through a chink in the shutters, rushed in and attacked the sailors with a *sjambok* which Morris carried. Sproull's companion escaped into the street and tried to regain his ship, and was afterwards found wandering drunkenly towards the docks, unable to say where the affray had occurred. Sproull, on the other hand, met the brothers' challenge and at one time managed to throw them both on the floor. Then, it was suggested, Marks Reubens opened a clasp-knife and stabbed the sailor with it several times, finally thrusting it into his heart. The wretched man then staggered out of the house, leaving a bloodstain of his hand on the front door, and collapsed on the opposite pavement, where he was found dead. His pockets had

been picked—only a threepenny-bit being left in one of them—and his gold watch and chain taken. It was suggested, by the way, that sailors coming on shore for a spree used to provide themselves with quantities of threepenny-bits in order to enjoy the luxury of giving silver to beggars without too great a drain on their purses.

The police, led by an ambitious Inspector Wensley who was afterwards to become Chief Constable, entered the house and found both brothers there with the girls, one of whom was lying drunk on her bed. Marks Reubens was with her, and his brother was discovered hiding upstairs. Morris admitted that "The girls brought a couple of fellows home last night, and they wouldn't part up. Me and my brother had a row with them and they threw a glass at one of the girls, so we set about them." He strenuously denied, however, having taken part in the actual murder, which was his brother's doing, but he admitted robbing the victim as he lay in the street. Then he said, "Do what you can for us, Inspector. We never meant to kill the man, and you wouldn't want to see a couple of young fellows like us lopped [i.e. hanged]." Unfortunately for the brothers, the police were extremely anxious to stop the continual robbery and violence practised on shore-going sailors, and Morris Reubens's plea was not very sympathetically received. Marks Reubens tried to get rid of a bloodstained handkerchief on the way to the police station, and it was noticed that Morris's hands, usually grubby, were so clean as to suggest that he had recently washed them. Moreover, after he was searched, the police grew suspicious and searched him again, finding the dead man's watch and chain hanging from a hook inside his trousers.

The charge of murder was pressed against both brothers: it was agreed that Marks had done the actual stabbing—the knife being afterwards found behind the stove of the girls' room—but Morris was treated as a constructive accomplice in the crime, for he had attacked Sproull with his *sjambok* and broken it over his head and also robbed the body. As the more sober woman, Emily Allen, said, "Morrie had the stick, and Markie the knife. I was arguing with my man when they came in, and then the trouble started."

If Morris Reubens, who showed pitiable fear in the dock,

could have overcome his natural avarice and thrown away the dead man's watch and chain, he might well have escaped conviction for murder; but the discovery of these articles in his possession and his admission that he rifled the body after the fatal blow was struck hardly bore out his protestations of ignorance that the man had been stabbed. Moreover, it was shown that the dead man's pockets had been rifled by somebody with blood on his hands, for there were stains on the inside lining. His counsel argued that he did not know that his brother carried a knife or would stab Sproull or had stabbed him. Marks Reubens's counsel urged that his client, whose character he did not wish to extenuate, had killed the sailor in self-defence when they were rolling on the floor, but, against this, it was pointed out that Marks must have deliberately opened the clasp-knife to strike the blow and had not merely caught it up, as one might seize a dagger, in a moment of fear.

The Judge summed up heavily against both prisoners. The women's evidence, he said, was "enough to make the angels weep," while, in regard to Morris Reubens's plea, he told the jury that, in the eyes of the law, anybody conspiring with another to cause grievous bodily harm is as guilty of murder, if the victim dies as a result, as the man who actually strikes the fatal blow. The jury then found both men guilty, and, to the dismay of Morris Reubens, who had just been attended by a doctor in the dock, made no recommendation to mercy in his case. He cried out, "Vot, gentlemen? No recommendation? Oh, my poor mother! Vot, no recommendation?"

George Elliott, a leading barrister of the day, appeared for him before the Court of Criminal Appeal, complaining both of the manner in which Morris Reubens's defence had been conducted at the Old Bailey and of the Judge's refusal to put to the jury the alternative of manslaughter in respect of Morris. That both brothers were scoundrels of the lowest type, he willingly admitted, but he claimed that this should not have been allowed to prejudice his client's right to a fair verdict. He made the plausible point that, if Morris had any idea that Sproull had been stabbed to death, he would never have implicated himself in that major crime by robbing the body. This, however, did not explain away the blood-

stains in Sproull's pockets, and the Court decided that both men had been justly found guilty and sentenced.

They were duly executed, being among the very few orthodox Jews ever condemned to death in London, and drunken sailors were safer in the East End after this terrible example.

Travers Humphreys and F. E. Smith appeared together for the first time in January 1909, when they were briefed to defend an eccentric financier named Henry Hess, a Portuguese Jew who had been called to the South African Bar, but it is amusing to note that, despite the talent he had engaged, their client decided to take matters more or less into his own hands. The main charge against him was that, as director of a public company, he had circulated false statements about its position. Humphreys and Smith appeared for him at the hearing of the charge and at the opening day of the trial at the Old Bailey, but, on the following day, they announced that they had talked matters over with their client and ascertained that the cross-examination of witnesses would be most complicated, involving a close acquaintance with the books of the company: Hess had naturally a far more intimate knowledge of those books than his counsel could pretend to have and, being a man of legal education, he wished to cross-examine the witnesses himself. At the same time, they added, Hess wished his counsel to watch over his interests during the trial and to address the jury on his behalf.

Richard Muir, who led the prosecution, objected. He agreed that any prisoner was entitled to dispense with counsel and conduct his own case, but, if he did this, then he could not have the services of counsel to address the jury. The Common Serjeant upheld Muir's submission and, after some further discussion, it was agreed that Hess should conduct his own case throughout, and that his counsel should remain in court to guard his legal interests but not to address the jury.

The case against Hess was scarcely as complicated as he suggested, though admittedly it entailed a full investigation into the affairs of the various companies he controlled. The main point was this: had Hess misled his shareholders by making false claims and withholding vitally important information?

Hess's companies were very much of a one-man show, so far

at least as their control was concerned. They had started with a financial agency, the Critic Agency, which published a periodical named *The Critic* and specialized in criticizing the management of public companies and in denouncing fraudulent ones. The paper and the agency behind it were successful, and Hess won the confidence of a considerable public. He then, in 1900, formed a limited company, the Common Weal Company, with the object of investing its shareholders' money to the best advantage. Its capital amounted, however, to only £2,000, and shortly afterwards Hess floated two other similar companies, with similar names and objects, each with a capital of £5,000. He was the sole administrator of the three companies, and he soon told his shareholders that his skilful investments had nearly doubled the capital of the companies. What he did not tell them, however, was much more interesting: it was that £8,000 out of the £12,000 subscribed for the three companies had been lent by him as director to himself as a private individual at 2¾ per cent. interest—which was unlikely to bring vast financial benefits to the shareholders.

His next move was to recommend the formation of a new investment company which would incorporate its predecessors. It was to be entitled the Common Weal Consolidated Company and, in urging it upon his shareholders, Hess made three statements:

1. He assured them that the consolidation of the three Common Weal companies would be advantageous to the shareholders.

2. He staked his reputation as an honest man, and as a critic of badly and fraudulently conducted companies, that the new consolidated company would be successful.

3. He stated that the old companies had a working capital of £15,000 at their disposal, which would be taken over by the new company as the basis of its immediate operations.

Now the first and second of these statements were soon disproved by facts. The new consolidated company got into difficulties, and Hess told his shareholders that this was due to the machinations of envious rivals, who had published its transactions and dragged it into the limelight, thus gravely interfering with its prospects as an investment firm. To obviate any further trouble of this kind he suggested that the shareholders should authorize him to transfer all its assets to another, nameless firm in order that he might

operate secretly and so recover the lost sums. The shareholders, still convinced of his honesty and skill as a speculator, agreed to this and Hess continued to conduct their affairs. Unfortunately, the prosecution alleged, no record could be traced of any dealings by the new firm, but it was clear that Hess had obligingly lent himself another £1,500 of the shareholders' money.

As for the third of Hess's statements when he floated the Consolidated company, this was one of the main planks in the case against him. The prosecution declared that the alleged working capital of £15,000 did not exist, and that all Hess's operations were designed to gain time and conceal the fact that he had borrowed three-quarters of the money subscribed for his various companies. Further, since he had lent himself this money without any adequate security and had used it for his private purposes, the Crown claimed that the transaction amounted to fraudulent misappropriation.

The prisoner fought these suggestions, and cross-examined the Crown's witnesses in great detail. He sought to show, and to some extent was successful, that none of his shareholders had ever complained of him, that by the articles of the various companies he was not bound to give security for any moneys he might borrow, and that he had expectations of receiving several thousands of pounds as compensation from the South African Government. Also he elicited from his book-keeper that, at the time the statement was made about the £15,000 working capital one of his assets, the Critic Agency, had a balance of about £6,600 and another, one of the Common Weal companies, a balance of £3,000. This witness further agreed that Hess had in his hands some £7,000, being subscriptions to the new company. Which three figures, Hess pointed out, amounted to more than the figure he had named. But it does not require much consideration to see that Hess was scarcely justified in claiming two of these items (the Critic Agency balance, and the new subscriptions) as being among the working capital of the company he was about to found.

After seven days of examination and cross-examination, the case for the prosecution ended. Hess then asked for time to prepare his defence, saying that he was incapable, both physically and mentally, of going on with it at once. The Common Serjeant,

however, replied that he noticed no signs of mental incapacity in the prisoner and that the latter must produce a doctor's application to substantiate his claim of physical weakness. When the trial was resumed, Hess said that, on his doctor's advice, he did not propose to go into the witness-box in his own defence, but would at once address the jury. This he did for an entire day. Next morning he did not appear when the Court sat; his doctor said that he was suffering from mental strain, but after a short delay he arrived. He then continued to address the jury and to protest his innocence through the morning, until at last he buried his face in his hands, as if exhausted, and began to repeat himself.

The Common Serjeant cut him short, remarking that most of his speech that day had been quite irrelevant to the points at issue; Hess apologized and said that he had finished, whereupon the Common Serjeant summed up. He commented specially on Hess's refusal to go into the witness-box, where he could have been cross-examined by the prosecution. The jury came back with a verdict of guilty to the charge of making false statements about the capital of the new company and on certain minor counts, but recommended Hess to leniency in view of his previous good character. The Court gave effect to this recommendation by passing a sentence of only twelve months' imprisonment in the second division, an extremely light punishment in the circumstances —though it does not appear to have encouraged many other fraudulent company-promoters to dispense with counsel's assistance in court. Hess afterwards became a journalistic assistant to Horatio Bottomley, who had first met him when bringing, and winning, a libel action against the *Critic*.

We come now to another of Travers Humphreys's cases which, though equally based on financial transactions, has at least the merit of being one of the most amusing frauds ever perpetrated.

One morning in September 1908, a young man stopped his cab at the door of a branch of the London and South-Western Bank and, entering and giving his name, inquired if his account had been transferred there from the Harlesden branch of the bank. The officials looked up their records and found they had just received written instructions about the transfer of this client's account, together with a specimen of his signature. He was asked

to sign the signature-book, and this signature was compared with the specimen and found to be identical. The new client cashed a cheque for £290, £200 of which he took in notes and £90 in gold. He re-entered his cab and drove to another branch of the bank, where, strange to relate, he went through an identical performance, even to the extent of taking £200 in notes and £90 in gold. He called at eight branches of the bank altogether with the same result and then drove to the head office of the bank in the City, where he went in by one door and vanished by another.

It occurred to none of the officials at the eight banks that their new client's signature, "D. S. Windell," might be read as "D—— Swindle," which was, however, only too true of the whole affair. Before very long they discovered that no fewer than thirteen branches of the London and South-Western Bank, including the eight he had visited, had received identical advice-notes, that these were all forged, and that the elusive Mr. Windell had never even had an account at the Harlesden branch. The significance of the audacious signature was at last recognized, and the police were informed.

There could be no doubt that the fraud had its source somewhere within the bank's own organization, for not only were the transfer advice-notes genuine (except for what had been written into them) and made out in proper form and apparently signed with the Harlesden manager's signature, but they were also authenticated by the bank's secret code-word of the week, which was "Tack." Investigations were then made, in which no fewer than eighty thousand of the bank's lithographed advice-notes were examined: it was found that the thirteen used in the fraud had a slight printing flaw, and that advice-notes with this particular flaw had been issued to only three branches. Thus the swindler or his accomplice was presumably employed at one of these branches.

This narrowed the search considerably, and then the accomplice gave himself away. A young man named King, who was employed by the bank as second cashier at one of the branches, tried to change some of the stolen notes at a bank in Antwerp, where the numbers were recognized as those on the list circulated by the London bank and the police. King managed to escape, but further suspicion fell on him because the code-word "Tack" on the

advice-notes was in handwriting similar to his, with a peculiarly shaped "T." He was arrested.

In April 1909, six months after the fraud, another youth was detained in Madrid under the name of "Bernard alias Windell" on information from Scotland Yard. The *Times* correspondent there, in view of the interest and amusement caused by the fraud, thought fit to send a special description of him to his newspaper, as follows: "He is of slight build and has auburn hair. His face is intellectual, but his features are hard. He is about twenty-eight years of age and is well-dressed. He declared he was a student and a writer, and produced stenographic notes of articles and reviews. He possesses several books on metaphysics and speaks six languages, including English (badly) and French (fluently). His only luggage is a portmanteau and a basket."

He was brought back to London and charged under the name of Bernard Robert, though the police believed that his real name was Isaac. I happen to have good authority for believing that neither of these was correct, but I see no reason to mention his actual name here.

Soon after arrest, he made a voluntary statement to the police: "I voluntarily declare that, under the assumed name of D. S. Windell, I obtained moneys to the value of £290 from eight of the branches of the London and South-Western Bank Ltd., on 23rd September last. I understand that, besides the above offence, I am to be charged with forgery, but the forgery I absolutely deny. As to the other matter I beg to state—not in order to excuse my action, but merely for the purpose of explaining it—that my intention in the first instance was not to obtain the money as such, but rather to feel myself able to do something which many others might feel themselves incapable of accomplishing. In other words, it was the devilment of the matter, the excitement, the ingenuity, the humour and the almost impossible success to crown it all which urged me to attempt the fraud. The very name assumed, D. S. Windell, goes to corroborate this contention. I am still very young—twenty-three—and this may explain my desire for excitement of some sort or other. The Great Tempter exploited my weakness, and from the moment almost that I had been apparently successful I was sorry for the deed. I could not retrace my steps.

I once intended to do so by returning the remnant of the money obtained to the legitimate owners, but subsequent considerations somehow made me reverse my decision. I had to go the whole hog, and I am afraid I have come to the tail now. I have been caught fairly and squarely, and I can hardly express how painful it is to me to find myself treated as a real criminal. But I have also made up my mind to stand the racket and to bear my punishment with courage and fortitude and, when I return to the world, to become once more a decent and, if possible, useful member of society."

At his trial at the Old Bailey, he pleaded guilty. Many people were called to speak of his ability and character. It was shown that, having a vast store of knowledge and a mastery of English, French, Dutch, German, Arabic, Italian, Hebrew, Yiddish, Portuguese, Spanish, Latin and Esperanto, he had made himself extremely useful to editors, surgeons and translators. There can be no doubt that the idea of the fraud did not originate with him, though it certainly appealed to the romantic side of his nature. This was a time when many young men were obsessed by the doctrines of Nietzsche, which were just being translated and expounded by an English group, among them "Windell" himself: the opportunity to become a superman of fraud was too fascinating to resist. He certainly was not primarily moved by desire for gain, for he gave away most of his share of the proceeds of the fraud and made no attempt to spend the rest on pleasure or luxury.

One hitherto unpublished side of the affair is that he used one or two hundred pounds of the bank's money to buy shares in an advanced weekly journal of that day, the *New Age*, the editor of which, the late A. R. Orage, was himself one of the best-known expounders of the Nietzschean cult. The *New Age* shares were valueless on the market, and the editor had naturally no sort of suspicion of the source of the money with which his young friend enabled him to pay off certain urgent debts of the paper. When the truth came out, Orage invited the bank to take over "Windell's" shares, but, after a glance at the balance sheet of the ever-penniless *New Age*, the bank ruefully declined them.

King, who stood in the dock with "Windell," was a different

"D—— S. WINDELL" IN COURT



The young man who made the world laugh at the expense of the London banks. His sense of humour explains the signature to his forged cheques. He was a Nietzschean, a multilinguist, a vegetarian, and a backer of bankrupt Left Wing periodicals.

(*Photo : Daily Mirror.*)

type of young man. He startled the magistrate at Bow Street by applying for some of his money to be spent on vegetables, as he was a vegetarian food-reformer and had been one, he said, for twenty-three years. As he was now only thirty, he must have started early. He complained that he could not maintain his physical and mental strength on the unreformed flesh-diet supplied in Brixton jail, and "I am sure," he said, "that the prosecution does not wish to starve me." His application was granted.

At the Old Bailey, it was stated of him that, besides believing in Theosophy and astrology, he was a Socialist of pronounced views and had told one of the police officers who arrested him that he did not consider it a crime to rob a bank. "Why," he said, "should there be capitalists as there are, and why should the rest of humanity be wage-slaves? The capitalists are the ruination of the country."

He pleaded not guilty throughout the case, and "Windell," though confessing his own guilt, said nothing to implicate King as his accomplice.

The evidence against the cashier King, however, was overwhelming, and his own father stated that King had recently offered to lend him a large sum of money, which came ostensibly from a sale of patents. Later, said this unhappy witness, his son had confessed that the money was the bank's but had added that it was in respect of arrears of salary. The possible significance of this explanation was suggested later when King's counsel pointed out that, though his client had been in the bank's employ for sixteen years and was in charge of transactions amounting to many thousands of pounds, his salary was still under three pounds a week: presumably King considered that his employers owed him a great deal more.

Summing up, the Recorder said that it was clear that "Windell" could not have carried out his fraud without the complicity of somebody inside the bank who had the necessary knowledge and facilities to make it possible. That this somebody was King was clearly suggested by the evidence for the prosecution, though, he added a little ponderously, the jury must not attach too much importance to King's strange and mischievous opinions on economics and politics: however reprehensible his remarks about the

ethics of robbing a bank might be, they did not necessarily involve the action of robbery.

When the jury found King guilty, the Recorder sentenced him to seven years' penal servitude, not merely, he explained, as punishment for the crime, but also as a deterrent to possible imitators. "Windell," however, was let off comparatively lightly with eighteen months' imprisonment, the Recorder regarding him as King's tool and noting that he owed no allegiance to the bank they had robbed. And the world went on laughing at the impudent audacity of the signature "D. S. Windell."

CHAPTER THREE

IT is notorious that one of the principal difficulties of the police in dealing with thefts is to convict the people who organize the crimes, but do not themselves actively perform them. Thus, while a burglar or forger may be caught and sent to jail, the men behind him, who have planned the theft and received most of the booty, may go scot-free. This is specially the case if these organizers treat their subordinates well enough to persuade the latter that, if they are caught, their interests will best be served by taking their punishment in the courts and not revealing the source of their inspiration and the channel by which they have disposed of the stolen goods. There are, fortunately not many such master-criminals, but, when they exist, they cause the police and the authorities endless annoyance. One of them, perhaps the greatest with whom Travers Humphreys had to deal in his long career as a Treasury Counsel, was the surprising individual known as "Cammi" Grizard, a clever, cheerful, prosperous-looking and well-dressed *habitué* of Hatton Garden, which is the centre of the English jewellery trade.

The police, as well as his large and admirably organized gang, knew that Grizard's was the mind behind innumerable thefts and frauds. He went to jail for a short time for theft in 1899, but for long afterwards he managed to avoid conviction. Twice in the early years of Travers Humphreys's work at the Old Bailey, it seemed that this arch-criminal would be brought to justice, but on the first occasion it proved impossible to put him in the dock and on the second he escaped very lightly indeed. It was not for another three years that, as will be told in a later chapter, Grizard was at last brought to book in a third case.

In the first of these episodes two men were tried for stealing jewels of the value of £40,000 from a French diamond merchant named Goldschmidt. This gentleman, as is the custom in his trade, used to carry with him a huge stock of jewels in a small

leather bag, trusting to his wits to preserve them from theft. His caution was such that he never let the bag out of his grasp at any time, except when—and this Cammi Grizard discovered by having him watched for a long preiod—he happened to be washing his hands, and even then he did not allow it to lie more than a few inches away. Grizard, with characteristic daring, decided to take advantage of this tiny loophole in Goldschmidt's precautions. He engaged two adroit thieves, an ex-jockey named Grimshaw and a young man named Higgins, to follow Goldschmidt one day in 1909 to the Café Monico, in Piccadilly Circus, where he was accustomed to lunch.

After his meal Goldschmidt, who was a creature of habit, went to the cloak-room to wash. The time—an important factor in the case—was about twenty past one. He appeared to have the place to himself and, turning on the taps, put down the little brown bag beside him. He then imagined that he heard a noise and looked round but saw nobody. The instant he put his hands into the water, however, a strange hand came from behind him, snatched the bag and made off with it.

Goldschmidt yelled, "Stop thief!" and made a grab at the man's back, but could not hold him. As he turned to give chase, another man came in who echoed the cry of "Stop thief!" but, by one of those little accidents that happen on such occasions, fell down and prevented Goldschmidt from leaving the cloak-room. What is more, he stayed there on the ground for nearly a minute, to Goldschmidt's indignant dismay. This man was Higgins, while the actual thief of the bag was Grimshaw, who was seen by witnesses to run out of the restaurant with the little brown bag. Both men were soon arrested, but no trace was found of the jewels. The police were certain that they had been passed from hand to hand until they reached Cammi Grizard, the inspirer of the whole plot; but no evidence could be found to implicate him.

Grimshaw and Higgins were put on trial, and put up a strenuous defence. They denied having stolen the jewels or having even been in the neighbourhood. Against this, they were identified by a barmaid at the Café Monico, who said that they entered the restaurant about the same time as Goldschmidt and asked for the telephone, which happened to be next door to the cloak-room.

Goldschmidt, however, could not identify Grimshaw at all and was doubtful about Higgins, who was not quite tall enough to fit his picture of the man who had fallen down and obstructed him. The cloak-room attendant described the obstructor as wearing a grey suit and a soft felt hat, but Detective-Sergeant Stephens, who knew Higgins personally and had even drunk with him just before lunch, said he was wearing a light coloured suit and a straw hat. But a landlady identified both the prisoners, Grimshaw as her lodger and Higgins as a frequent visitor to him and as having come in with him on the afternoon of the theft, carrying a small brown bag.

Higgins's alibi had at least the merit of originality: for he claimed that, practically at the moment when the theft took place, he was enjoying a drink with Detective-Sergeant Stephens a considerable distance away. Stephens could not satisfactorily corroborate or dispute this: he remembered the drink, but not the place or the time, and thought it was probably round noon. Giving evidence, Higgins denied all knowledge of the events and of the other people in the case—except the detective-sergeant, with whom he claimed to have been drinking at ten minutes to one at the Bell Tavern in Holborn, after which they had walked together to another public-house. At half-past one, he said, which was roughly five minutes after the time of the theft, he walked up to Smithfield Market to see a man whom he named. Witnesses were called to corroborate these statements, including Higgins's father, who swore that he had joined him near Smithfield shortly before two o'clock. His son, he said, was wearing a dark suit and a straw hat, and he produced the receipts for goods purchased at Smithfield by them that afternoon.

Higgins's counsel stressed the shakiness of the identification of his client, whom he described as the highly respectable son of a highly respected cheesemonger. It turned out, however, that Higgins's respectability was open to doubt, for he was shown to be a racecourse frequenter, who acted as clerk when his father, the cheesemonger, made a book; while a policeman declared that Higgins had told him where to find a notorious criminal, Eddie Guerin, the man whose escape from Devil's Island first made him a public character in England. The prosecution suggested that

Higgins would not have known so much about Guerin if he himself had been as respectable as he claimed. Further, Travers Humphreys effectively cross-examined Higgins's witnesses to show that some of them were not very reliable characters.

The jury found both men guilty. Grimshaw, who had other convictions against him, was sentenced to three years' penal servitude, and Higgins to eighteen months in the second division. Neither of them would confess that Cammi Grizard was behind the theft and had received the jewels, though the police were certain of this.

It was not long, however, before Grizard fell foul of the law, though his offence was a minor one compared with those which the police were trying to prove against him. He and another jeweller named Samuel Barnett were charged with stealing and receiving two diamond rings worth about £25, the property of a Brighton lady. At the same time Barnett was charged with receiving the proceeds of a burglary a year earlier, and also with absconding after Grizard had put up £100 bail for him. He was arrested in Grizard's house, and so the latter was also charged with harbouring him.

The main evidence against Barnett was given by a convict, Collinson, who was serving a five-years sentence at Dartmoor for housebreaking. He admitted doing the burglary at Brighton and said that, as in several other instances, he had sold the stolen jewellery to Barnett. Barnett was sentenced to eighteen months' hard labour; Grizard was found not guilty of the receiving charge, but, for harbouring Barnett, he received a sentence of five months' imprisonment in the second division. We shall meet Cammi Grizard again before long, this time in the most sensational and disastrous episode of his astonishing career.

The next eventful case in Travers Humphreys's career was a trial which, for various reasons, may be classed among the most celebrated cases in British legal history. Humphreys and Muir prepared the prosecution which eventually led to the conviction for murder of Hawley Harvey Crippen.

If Crippen had been the cold-blooded criminal that he is supposed to have been, he would certainly never have been brought to trial for murder. His crime would have passed undiscovered, if

not unsuspected, and there seems no reason why he should not have gone on living a new life as the husband of his pathetic mistress, Ethel Neave—or Ethel le Neve, as she was more romantically described in the proceedings. A little more assurance on his part, the delay of a few more days, and the police would probably have ceased to interest themselves in the whereabouts of his wife and Crippen would have been free to travel openly with the girl to America and hide himself away there.

On the other hand, it is wholly unnecessary to imagine that he was a man more deserving of pity than of blame, or the victim of a miscarriage of justice. He was most surely guilty of the deliberate murder of his wife, and he paid the penalty. But, except for this one dreadful offence, he was certainly not a cruel or heartless person. His character might be read from his appearance, for he was a short, fair man with "old gold" hair and gold-rimmed spectacles, mild, unimpressive—the sort of man whom nobody would look at twice, except possibly to comment on his physical insignificance. His record as a "doctor" will not bear scrutiny, but otherwise his career seems to have been blameless up to the time of the murder. It is no wonder that the police were very nearly satisfied of his innocence—until he made his one fatal error of judgment.

An American by birth, he was forty-eight years old in 1910. He had come to England at the beginning of the century with an obscure American medical degree, doubtless obtained through the post, to practise as a dentist and to occupy himself with an extremely disreputable side of medicine. With him came his second wife, a woman of European-Jewish ancestry and, before her marriage, of dubious morals. She was without education or breeding, but impulsive and often kind: her relations with her puny husband might be compared with those of the female and male spider. Her name at birth was Kunigunde Makamotsky, but she changed it to Cora Turner when he met her and she aspired to success as a singer under the name of "Belle Elmore." If she ever had any talent for the stage, she had long since lost it; her only recorded appearance in an English music-hall was a dismal failure, but at the time of her death, when she was in the late thirties, she still aspired to shine on the concert platform or

the music-hall stage, despite the loss of her figure and her singing voice. Soon after their arrival in London, her husband abandoned his dangerous practice as an unqualified dentist and a woman's consultant, and became the English agent of an American firm of patent-medicine vendors, a post which, incidentally, made him familiar with various drugs and poisons. In November 1909, however, the firm decided to close its agency, but Crippen carried on the business at his own financial risk. He was on the verge of bankruptcy, a crisis in his circumstances which, added to her own disappointments, seems to have unsettled his wife.

She warned him that she intended to withdraw from the bank the money which was deposited there in their joint account and to leave him to his fate. If she went away, with the money and her jewellery, Crippen's financial plight would have been disastrous. Moreover, he had fallen in love with Ethel le Neve, who had formerly worked for him as a typist-assistant. If he could no longer provide for himself, he equally could not provide for her; and all her hopes of marriage, after a divorce from his wife, would have been destroyed. It seems highly probable that Le Neve, who had a natural passion for respectability, had made clear to him that she was unwilling to remain his mistress any longer in existing circumstances, and that this was the real cause of the crime.

Mrs. Crippen vanished from their house in Hilldrop Crescent, Camden Town, in February 1910. She had warned none of her friends of her departure, and they were surprised when Crippen told them that she had gone away to America at a moment's notice. Stranger still, she had left her jewels behind her, and it was noted that, a week or two later, Le Neve not only came to live in the house as Crippen's housekeeper but also wore some of her predecessors' jewels and furs. Mrs. Crippen's friends began to ask him questions, and he told a series of strange stories, among them that she had written from California to say that she was ill. At the end of March he told them that he had received news of her death, and he announced it in an advertisement in the *Era*, the music-hall artists' weekly paper.

Her friends then took their story to Scotland Yard, and Detective-Inspector Dew was sent to investigate it. To him Crippen promptly admitted that the news of his wife's illness and death

was false: he had invented it, he said, to avoid derision and scandal, because in fact his wife had eloped to America with another man. "So far as I know," he added, "she is still alive." He wrote down and signed a statement, embodying all this, at the detective's request; and, so far as is known, the authorities were ready to drop their inquiries. Unfortunately for Crippen, however, the Inspector wished to verify a date in the statement and called again at Crippen's house, which he found empty. Crippen and Le Neve had taken flight.

At this Inspector Dew became suspicious again and determined to make a thorough search of the house. He even went so far as to say that he would pull it down, brick by brick, if this were necessary. It was not necessary, for, in his preliminary search, Dew happened to tread on a loose brick in the coal cellar, prised it up and dug beneath it until he found some suspicious remains wrapped in a man's pyjama jacket. Pathologists examined them and declared that they were parts of a human body, probably that of a stout woman of middle age, who bleached her hair and had had an abdominal operation—this last clue depending on a scar on a fragment of the skin. All these indications pointed to the remains being those of "Belle Elmore," and when, further, a quantity of hyoscine hydrobromide was found in them and the pyjama was discovered to bear a tab which dated it as having been bought within the two previous years, it seemed extremely likely that Crippen had murdered her. A hue and cry was raised, and their description was widely circulated in the newspapers.

The captain of the liner *Montrose*, about to sail from Antwerp to Quebec, read the description in the Belgian port and, during the voyage, associated it with two of his passengers, a clean-shaven little American who gave the name of "John Robinson" and his alleged son, who shared a cabin with him. The captain soon realized that his suspicion was justified. He made the man smile and so identified Crippen's gold teeth; he noticed that the "boy's" clothes did not fit him and that he always kept his manicured hands in his pockets. He observed too that Crippen's affection for his companion was not wholly paternal. He then used the new invention of wireless telegraphy, with which the liner was fitted, to send a message to Scotland Yard: this was the first time that

wireless had been employed for such a purpose. Inspector Dew caught a faster boat, crossed to Canada, and, boarding the *Montrose* at Quebec in the guise of a pilot, recognized Crippen and arrested him. He was known to be carrying a revolver and was disarmed; while he was being searched, a card was found in his pocket, threatening suicide. Apparently the unhappy man had written it for his mistress to find if he jumped overboard; but he had not been able to screw up his courage to do this. Let it be added, as a redeeming feature of his character, that almost his first words to the police were that Le Neve "knows nothing about it. I told her nothing."

He was brought back to England, and his trial began at the Old Bailey in October, eight months after "Belle Elmore's" disappearance. Arthur Newton, the best known and most ingenious defence solicitor of the day in criminal cases, wished to brief F. E. Smith to defend Crippen and Le Neve, but "F.E.," after reading the documents, advised that two counsel were necessary and himself elected to defend the girl. Mr. (now Sir) Alfred Tobin was briefed to defend Crippen.

There is, I understand, no truth in the much circulated story that Newton wished to brief Marshall Hall, and that the latter threw up the brief because he was not allowed to conduct the defence in his own way. Marshall Hall (according to this legend) believed that he might secure Crippen's acquittal or reduce his crime to manslaughter by suggesting that "Belle Elmore's" death was the result of an accident. Crippen, he would tell the jury, was weary of his wife's constant demands on him and, in order to quiet her and also to enjoy Le Neve's company in his own house, gave his wife a dose of hyoscine as a sleeping-draught; inadvertently he gave her too much and she died, whereupon, in an access of panic, he dissected her body and buried it in the cellar. The story continues that, when Crippen heard that Marshall Hall intended to put forward this defence, he peremptorily forbade it because it might imply that Le Neve was in the house on the night of the accident and so might make her appear to have been his accomplice. Rather than let her run this risk, he preferred to abandon the defence altogether—although it was true—and so Marshall Hall returned his brief.

Though, as I say, there is apparently no truth in the story, it is perhaps worth while noting that the suggested defence would not have been likely to influence any intelligent jury. Crippen had been accustomed for years to make up and dispense drugs. He must have known that the largest dose of hysocine which could safely be given as a sleeping-draught (supposing that he were so reckless as to use it for this purpose in place of other, safer drugs) was very much less than the pathologists showed to have been used.

To return to what really happened, the case for the prosecution, prepared by Muir and Travers Humphreys, was overwhelming. The motives, financial and domestic, were very strong. Further, Crippen was proved to have bought five grains of hyoscine only a fortnight before his wife's death, his only known purchase of it. The scar on the skin and the tell-tale tab on the pyjama-jacket left little doubt about the identity of the victim, and none that she had been killed and buried recently. The prosecution had far more medical evidence available than was at first produced, and Crippen's attempt to rebut it was overwhelmed. He was found guilty and sentenced to death.

When the case of Le Neve followed, Richard Muir, who considered that "Full justice has not yet been done," tried to manœuvre her counsel, F. E. Smith, into having to prove his client's innocence of Crippen's crime. F. E. Smith, however, who (like other experienced people who saw her at the time) was convinced that she had known nothing of the murder, was too wily to be caught in this way and insisted that Muir must prove his case against her. This, however, the prosecution was unable to do, and Smith put up an extremely strong argument on her behalf. Was it likely, he asked—to take a typical portion of his speech—that Crippen would tell her that he had just murdered his wife, "Now come and take her place!" There was no evidence that she had seen the papers describing the discovery of the body, while her flight with her lover was to be explained by her admitted knowledge that he feared arrest, in which event her relations with him were sure to be disclosed. Smith laid stress on Le Neve's desire for respectability, which, he said, explained what little in her conduct might appear suspicious. The jury accepted his arguments and acquitted the wretched girl. She has since died.

A macabre jest circulated after the execution of Crippen, whose last agony was relieved by the knowledge that Le Neve had been acquitted, that the other inhabitants of Hilldrop Crescent wished to have the name of the street changed because of the notoriety of the case; and that the authorities, remembering how the crime had been discovered, suggested as an alternative "Dewdrop Crescent." This story is as worthy of credence as the famous Marshall Hall legend.

At the beginning of our last chapter two forgery cases were described in which Travers Humphreys appeared at the Old Bailey: in the first he defended Mrs. Hughes, the begging-letter writer, and in the second Philip Peach. Some five years later he was concerned in the same court in another trial which was to some extent associated with its predecessors: just as Wellings, Mrs. Hughes's accomplice, was brought from jail to give evidence against Peach, so now we find Peach brought from jail as a witness in the trial of R. H. P. Hutchinson, who was also accused of forgery. This time Humphreys and his former client were on different sides: Humphreys prosecuted, and Peach was a witness for the defence.

Hutchinson, a member of an old and wealthy Lancashire family, was an old Etonian—and, let it be said at once, had been one for forty years—who had become chairman of a Conservative Association in the Midlands. These proofs of respectability did not save him from being charged with seven counts of forgery. It was shown that he, now a man of fifty-eight, had been in financial difficulties for twenty years and had gone bankrupt in 1899: nevertheless, though he appeared to have no reputable source of income, he had occupied two large houses, one in Rochdale and the other in Brighton, and lived in substantial comfort. In the summer of 1909, two years before he was put on trial, he took a prominent part in organizing a political organization, the Budget Protest League, with the object of opposing Lloyd George's Budget proposals of that year. His League received considerable support from shocked landowners and other victims, among whom Mr. Richard Bennett, of Thornby Hall, Northampton, thought fit to subscribe a cheque for a guinea and a half to its funds. This cheque, which was dated 10th May, was not paid into the Man-

chester and County Bank, on which it was drawn, until 6th June. On 14th May, however, the manager of the bank received a letter, apparently from Mr. Bennett, asking for a fresh cheque-book to be posted to him at the Langham Hotel in London. The book was sent and on 18th May one of its cheques was presented at the bank bearing Mr. Bennett's signature, and the £630 it represented was paid out. It was claimed by the prosecution, and accepted by the jury, that the signature on the cheque was a tracing from the signature on the cheque which he had subscribed to Hutchinson's Budget Protest League.

A few weeks later a Mr. Cross sent a guinea cheque to the League, and almost at once a cheque for £399, apparently signed by him, was presented at his bank, Deacons Bank in Bolton, and duly cashed. Here too, it was afterwards discovered, the forged signature had been traced from the subscription cheque.

In the same month a Captain Warner, in response to a request from Hutchinson, sent the League a cheque for £2 drawn on Parr's Bank at Loughborough. Instantly the manager of that bank received a letter asking for a cheque-book to be sent to Captain Warner at the Royal York Hotel, Brighton. By extraordinary luck the manager received by the same post a circular from his headquarters warning him against frauds which were being committed in just this manner. Noticing also that the letter was not worded in Captain Warner's usual style, he telegraphed to him for confirmation of it and, naturally, was told that the letter was a forgery. He called the police, who instructed him to post the cheque-book to Brighton, in order that they might arrest whoever came there to collect it. This time the luck went the other way, for the forger apparently took fright and decided not to fetch the cheque-book: moreover, there were no more frauds of the kind for some months.

But with the New Year the forger adopted a new variation of his procedure. The manager of Beckett's Bank in Leeds received a letter ostensibly signed by Sir Charles Lowther, as follows: "Please note I have given Mr. D. M. Lane a draft on plain paper for £500." And indeed a cheque drawn to Mr. Lane on plain paper for £500 was presented next morning to the bank, and the amount paid. It may be noted that Sir Charles had lately

accepted Hutchinson's invitation to subscribe to the Budget Protest League.

Yet another subscriber appeared in Mr. Guy Paget, the local Conservative candidate for Parliament, who sent a cheque for one guinea after being approached by Hutchinson. In the early autumn somebody went to Eastbourne, stayed in a hotel there as Mr. Paget and signed a letter in his name to Lloyd's Bank, Leicester, asking for a new cheque-book. He then left the hotel, asking that his letters should be forwarded to an address near Hyde Park in London. The cheque-book arrived and was forwarded to this address, with the result that, a few days later, a cheque for £975 was presented in Leicester over Mr. Paget's signature and cashed.

The prosecution based their case mainly on this last episode, for they were able to exhibit every link in the chain which led from Hutchinson's office of the Budget Protest League to the collection of the cheque-book at the Hyde Park address—which, incidentally, was that of a stationer who charged his clients a penny for every letter he received there on their behalf—the cashing of the cheque in Leicester, the exchanging of the proceeds into foreign money and back again into English notes, and the final depositing of some of these in Hutchinson's account with a Manchester bank.

Hutchinson's answer to the charge was sufficiently ingenious. He said that he had come to the conclusion that he had been made the innocent tool of a man named Mackenzie, whom he had known casually for a number of years. When the work of the Budget Protest League had grown too large for him to deal with alone, he had handed over the financial side of the organization to his friend Mackenzie, and he now suspected that his false friend had misused subscribers' cheques in the manner suggested by the Crown. Though he had always supposed Mackenzie to be an honest person, he had made inquiries since his arrest and discovered that Mackenzie was really a man named Mackenzie Peach, a notorious forger who had been sent three times to jail and who was, moreover, the father of the Philip Peach whom Humphreys had helped to convict five years before.

As the younger Peach had been sentenced to seven years' imprisonment, he was still in jail and, in due course, he appeared

at the Old Bailey to give evidence in support of Hutchinson's story. According to him, Hutchinson was telling the truth, and the real culprit in the affair was really Mackenzie Peach, the witness's father. As the elder Peach had lately died, only his reputation (which was not a very good one) could suffer from his son's unnatural accusations. It will be noted, however, that no serious attempt was made by the defendant or by the unfilial witness to explain how the latter in his prison could be aware of the facts he presented or why Mackenzie Peach should have thought fit to pay some of his ill-gotten booty into Hutchinson's banking account.

The jury was sufficiently impressed with Peach's evidence to attempt to return a verdict against Hutchinson of "Guilty of participating in the forgery and in the proceeds of the forgery, but not of forging or uttering the cheque." The Common Serjeant told them bluntly that this was not a verdict which he or any other Judge could accept; what they had to decide, he explained, was whether Hutchinson was a guilty party to either the forging or the obtaining of the Paget cheque. This time the jury hurried back with a verdict of guilty, but added to it a recommendation to mercy, partly perhaps to demonstrate their pique at the Common Serjeant's dismissal of their first attempt. Sentence on Hutchinson was postponed pending the hearing of other charges against him, but he appealed to the Court of Criminal Appeal against the sentence on the ground that the jury's first verdict was in effect an acquittal. The Court of Criminal Appeal, however, presided over by Mr. Justice Darling, dismissed the appeal, explaining that the original verdict was of no importance, being neither one thing nor the other, and that the Common Serjeant's direction to the jury to reconsider their verdict was perfectly in order. In the end Hutchinson was sent to jail for four years' penal servitude.

By the time this sentence was passed, Travers Humphreys, who was now prodigiously busy at the Old Bailey, had appeared in several other important cases. Among them was a murder trial, which also went to the Court of Criminal Appeal and, incidentally, created a precedent there.

This rose out of the stabbing of a girl in Clerkenwell in the summer of 1911. Her name was Rose Render and she was

murdered in the middle of the night of 20th August. The police turned out to find her murderer, and suspicion fell at once on Charles Ellsome, a labourer of twenty-two, with whom she had been living until a few days before her death. The police came on Ellsome as he entered a restaurant next day, and, when he saw them, he said, "It's me you want." When, however, he was arrested and formally cautioned, he declared that he knew nothing of the matter.

There was a considerable amount of evidence against him. Thus, the girl's father stated that Ellsome had wanted to send Rose on the streets to make money for him. It was proved that, a week before the murder, he bought a chef's knife with a long blade. About half an hour after the crime, the prosecution's case continued, Ellsome called on a friend named Fletcher and told him that he had killed Rose with this knife because she had left him and would not return. In cross-examination Fletcher admitted that he was liable to fits, one of which had occurred on the day before the conversation he had just related: further, he he admitted he was a thief and proud of it!

The defence was an alibi, and witnesses were called to state that Ellsome was not in Clerkenwell on the night of the murder. Mr. Justice Avory summed up and the jury returned a verdict of guilty. When Ellsome was asked in the usual form if he had anything to say why sentence of death should not be passed on him, he replied piously, "No, sir. I have only got One Judge." Fortunately for him, as it afterwards turned out, he was wrong.

The Judge, sentencing him to death, commented that he had been living a most degraded life and had presumably killed the girl out of jealousy that another man should reap the benefit of her horrible occupation. At this stage the case became an important one in law because Ellsome appealed and, for the first time since the creation of the Court of Criminal Appeal, it set aside a conviction in a capital case.

The grounds for the appeal were that the witness Fletcher, the proud thief, was a man of such character that his evidence could not be accepted without corroboration, and that, though the Judge had told the jury that there was a statement to the police corroborating Fletcher's evidence, this statement had not been put

in at the trial and, in any case, failed to corroborate Fletcher in several important respects. Mr. Justice Darling, in delivering the judgment of the Court of Crininal Appeal, made it plain that this Court was expressing an opinion only about Ellsome's conviction, but not about his guilt or innocence; indeed, the Court regretted very much that it could not order the case to be re-tried. As it was, Ellsome must go free; because Fletcher, being an essential witness for the prosecution, was one whose position made it essential that his evidence should be corroborated. Considerations of character apart, Fletcher was undoubtedly an accessory after the fact of the murder and possibly, said Mr. Justice Darling, even before the fact; and therefore he was by himself an unreliable witness. Further, the Judge had mistakenly thought that there was corroboration of Fletcher's evidence, and had so directed the jury. This misdirection must have had some weight with the jury, whose verdict might in consequence have been based on an error.

It may be remarked that, whatever other characteristics Sir Horace Avory possessed, he was famous above all other things for his knowledge of the law: so that his error in this case was most extraordinary.

Some idea of the almost fantastic variety of work with which Travers Humphreys was entrusted may be gained from an account of a case wherein he was concerned only two days after Ellsome's appeal was allowed.

Jack Johnson, a negro, was the heavyweight boxing champion of the world in 1911, and Bombardier Wells, a British "white hope," challenged him for his title. The fight was arranged for 2nd October at the Earls Court arena and, as a result, an enormous upheaval began in political, legal, religious and sporting circles. In theory the bout was to last twenty rounds, but in practice none of Johnson's recent opponents had been able to continue fighting to the end. The black champion had knocked out Sid Burns in Sydney in the fourteenth round, Ketchell in San Francisco in the twelfth round, and Jeffreys in Reno in the fifteenth round. Because Wells was likely to meet the same fate and because the notion of a black man fighting a white one caused widespread prejudice, efforts were made on many sides to prevent the contest.

The London County Council was petitioned by schoolmasters

and others to prevent cinematograph pictures of the fight being shown, lest innocent children might be contaminated by the horrid spectacle. The Rev. F. B. Meyer, a notable Free Churchman, organized a petition to Mr. Winston Churchill, the Home Secretary, asking him to interfere. As Mr. Churchill happened to be at Balmoral as the guest of the King and Queen, the petition was sent to him there and did not lose publicity in the process. Among its signatories were the then Archbishop of York, the Bishop of London, and a long list of other distinguished names from religious and academic circles. On the other hand, a petition was forwarded to Mr. Churchill from the Boxers' Union, praying him to take no action to stop the fight; and a meeting of sportsmen, both real and self-styled, met at the Hotel Cecil to claim the "right to box." Letters on the colour question appeared in the Press, and the Bishop of Grahamstown (South Africa) wrote to add his presumedly expert aid to the opponents of the fight.

As a result of all this, Mr. Churchill announced that, if the fight were not called off voluntarily, official steps would be taken to prevent it. *The Times* published a leading article welcoming this news. While maternally hoping that nothing would ever impair the legitimate interests of the ring, *The Times* added this characteristic thunderbolt: "The effect of an encounter between champions of different colours may not have any meaning for the patrons of the 'science' who assemble at Earls Court, but it will, nevertheless, be felt in corners of the earth of which they may never have heard. The sport may be good or bad; but, whether good or bad, it cannot be judged by its influence on the little scene alone in which the encounter is held. Least of all can it be judged when the scene lies in the heart of an Empire with vast and unparalleled responsibilities in the relation of black and white."

Matters came to a head on 27th September, when the promoter, defying the Home Secretary, *The Times*, the London County Council schoolmasters, the Archbishop of York and the Free Church, was found to be calmly going on with his preparations. On that day two important legal applications were made. One was in the High Court before Mr. Justice Lush, and was made by the Metropolitan Railway Company, the freeholders of the Earls Court Exhibition, who asked for an interlocutory (i.e.,



Photo : Central Press

JACK JOHNSON, heavyweight champion of the world, told the magistrate that he would not box anywhere in future where the puritanical British Government had control.

temporary) injunction to restrain the Earls Court Company from allowing the fight there. The Earls Court Company were the lessees of the Exhibition buildings and they had entered into a contract with the promoter to stage the fight on their premises. The basis of the Railway Company's application was that such use of the premises might endanger the renewal of their licence from the London County Council and that it was also a breach of the lessee's covenant that the Earls Court Exhibition buildings should only be used for high-class spectacles conducted with due regard to the maintenance of order and in no way contrary to decency and morality.

The interlocutory injunction was granted, subject to an undertaking by the Railway Company to pay damages if, on appeal or on the trial of the action, it should be held to have been not properly granted. Its effect was that the fight could not be held at Earls Court on the date fixed, but, even so, while the action was being heard in the High Court, Jack Johnson, Bombardier Wells and three other persons—including "Jimmie" White, the Rochdale bricklayer who became a financier and, at last, a suicide—concerned in the promotion of the match, appeared before Mr. Marsham, the magistrate at Bow Street police court, to answer summonses for threatening to commit a breach of the peace at Earls Court.

An enormous crowd collected to see the fun, and a number of distinguished counsel were briefed on either side. The Solicitor-General, Sir John Simon, led Richard Muir and Travers Humphreys for the Director of Public Prosecutions, while Henry Curtis-Bennett and Mr. Fulton appeared for the defendants, except Jack Johnson. Mr. Fulton asked for time to enable F. E. Smith to be briefed, but the magistrate decided to proceed with the case.

The Solicitor-General, outlining the circumstances, gratified Jack Johnson and the Court by recounting the poor show put up by his previous adversaries. Then Sir John Simon said that he was there to show that the fight was illegal. The distinction, he claimed, between illegal and legal fights is that prize-fighting is illegal, whereas a sparring match is legal which does not contemplate or involve injuries so great as to prevent the continuance of the match to its end. This particular contest, he went on, had as

its primary object the knocking-out of one contestant by the other. These facts, Sir John submitted, in view of Johnson's record in previous fights, were enough to show that a breach of the peace was to be apprehended.

The only witness called was a policeman who produced a copy of the *Sporting Life* containing an account of one of Johnson's fights in America. Johnson, cross-examining the policeman on his own behalf, commented that the witness was only going by the book, which, said the experienced negro, made his evidence very thin. He then asked the policeman if he had ever seen a boxing match, to which the witness surprisingly answered that he had not.

"And you've no idea what they're like?" asked Jack Johnson, following up this lucky lead.

"No."

The huge negro turned to the magistrate. "The witness may go, sah," he said gravely. "I'm through."

The magistrate then adjourned the case, telling the defendants that they had better come back next day prepared with substantial bail. "I don't say that it will be wanted," he added, "but you had better be prepared."

Loud cheers were raised for Johnson and Wells as they left the court. Next day, the defendants, realizing that the injunction granted by Mr. Justice Lush had already stopped the fight at Earls Court, gave the magistrate an undertaking not to fight there, and the proceedings against them were adjourned *sine die*. Jack Johnson, however, who was evidently pleased with his overnight success as an advocate, thought fit to express his considered opinion on the whole matter.

"Sah," he said to the magistrate, "all I have to say is that, the injunction having been granted, there cannot be any boxing at Earls Court on Monday. And Johnnie Johnson, speaking for himself here and now, wishes to state that he will not box with Mr. Wells in the British Isles or anywhere else where the British Government have control."

He then left for Paris, stating that he had decided to retire from the ring. Bombardier Wells later wrote to the Press complaining that Johnson had not honoured an arrangement, made after the

English proceedings, to fix a match with him in Paris. One may perhaps be allowed to suggest that, in view of the records of the two men's prowess, it was not unfortunate for Wells that the contest was abandoned, quite apart, of course, from the problematical effects which *The Times* feared in the "corners of the earth."

CHAPTER FOUR

FREDERICK HENRY SEDDON had many of the copy-book virtues. He was industrious, ambitious, enterprising, thrifty and respectable in appearance. Further, he was a good son, husband and father. A man of forty, and a native of Lancashire, he had worked his way up from penury to a responsible post of a London district superintendent in the insurance company in which he had spent all his working life. His salary, with commission, amounted to several hundreds of pounds a year, to which he added the profits of many sidelines, largely speculations in small house property. His wife was a year or two younger. Apart from a short separation from him, for reasons which neither would wholly divulge, she appeared to live very happily with him, though her perpetual smile was due rather to nervousness than to contentment. She enormously admired his business capacity and on one occasion sought to profit by it by establishing a second-hand-clothes shop with his money: the business failed, and it was after this, and perhaps in consequence of it, that they temporarily separated. They had five children alive at the time of the episodes with which we are now concerned, among these a daughter, Maggie, aged fifteen, and a baby of a few months.

In the last days of 1911, Travers Humphreys was briefed in the preliminary stages of the Crown case against Mr. and Mrs. Seddon for the murder of their lodger Eliza Mary Barrow, whom, it was alleged, they had poisoned with arsenic.

Miss Barrow was a blowsy, drunken, miserly, prematurely senile woman of forty-nine, who for a year before her death had lived in the Seddons' house at Tollington Park, a street near Finsbury Park in the north of London. Unfortunately for her and for everybody associated with her, she owned a little fortune of about £4,000, invested partly in Indian Government stock and partly in house property, including a public-house. Presuming on this capital, she had for some years quartered herself on her relations,

quarrelling with them when she found them unprepared to put up with her disagreeable company and habits in the expectation of being mentioned in her will. She carried with her an adopted son, Ernie Grant, who was nine or ten years old and who, in return for her maudlin affection, acted as her companion, personal servant and bed-warmer. In July 1910 Miss Barrow, having quarrelled with the last of her relations who were householders, looked out for rooms which she and the little boy could occupy, with his uncle and aunt as their attendants. An agent directed her to the Seddons's house, where the top floor was to let, and she moved in with her retinue.

She took an immediate liking to her landlord: Seddon's views about money-making and thrift resembled her own. Within a fortnight of her arrival, she induced him to eject Ernie Grant's uncle and aunt, and thenceforward the Seddons became her closest, and indeed her only, friends. The Lloyd George Budget, with its threats of increased taxation, frightened her parsimonious soul and she confided to Seddon that she feared a heavy drop in the value of her property; her Indian stock had already fallen on the Stock Exchange, so that altogether, as she told Seddon, her financial future filled her with anxiety. She could not have taken her troubles to a more sympathetic adviser. Seddon went into her accounts and assured her that, if she would make over to him her stocks and her house property, he would guarantee her an annuity of thirteen pounds a week, to be paid in gold. The frightened, covetous woman agreed to this, and by the beginning of 1911 the transaction was complete. Miss Barrow gloated over the golden sovereigns which he brought her each month, and he, having made an excellent bargain, promptly turned the India stock into cash and bought houses in Stepney with it. Being, as has been said, a good family-man, he invited his father to come and share in the new prosperity and at the same time he placed his daughter Maggie with Miss Barrow as cook for seven shillings a week.

Then, after a few months, Miss Barrow fell ill. In August she suffered a little from gastritis and asthma, accentuated by heavy drinking, and at the beginning of the following month she took permanently to her bed with stomach trouble. A local doctor, whom the Seddons called to her, diagnosed her complaint as a

summer sickness, and prescribed for her, among other things, an effervescing medicine. He attended her for the last time on 13th September, when she was still not responding to his treatment, and on the following morning Seddon called at his house to report her death. The unsuspicious doctor gave him a death certificate, stating the cause of death to be the illness for which he had treated her. Two days later Seddon buried her without, it would appear, troubling too much to inform her relations of her death. These, naturally piqued at the neglect, were even more hurt to learn from Seddon, when they approached him, that all Miss Barrow's property had passed into his hands: they suspected foul play and communicated their suspicion to the police, who exhumed the body and found arsenic in it, a poison which could account for the symptoms of her last illness. The Seddons were arrested, charged with murdering her, and put on trial at the Old Bailey.

The case for the Crown was opened by the Attorney-General, Sir Rufus Isaacs, afterwards Lord Reading, who led a strong team including Travers Humphreys. It was based on purely circumstantial evidence. Miss Barrow had died, apparently from arsenic poisoning. The Seddons had the opportunity to administer poison to her, and a considerable financial motive for desiring her death. Did Seddon poison Miss Barrow? Did Mrs. Seddon poison her? Did they do it together? These were the questions before the Court. Seddon was defended by the picturesque Marshall Hall, while Mr. Gervais Rentoul represented Mrs. Seddon. Mr. Justice Bucknill presided over the trial, which lasted for no fewer than ten days.

The prosecution set out additional facts which displayed the Seddons in an unfavourable light. Thus, a number of five-pound notes which had been in Miss Barrow's possession were proved to have been changed at various times during the past year by the female prisoner, who had endorsed them with a false name and address. A cash-box, containing some of the dead woman's savings, was found empty after her death, but Seddon was then seen in possession of an unusually large sum of money. Again, instead of giving Miss Barrow a decent funeral in her family vault, he had arranged with a friendly undertaker to bury her in the cheapest possible manner. Though he produced, with suspicious readiness,

a carbon copy of a letter to the relations, informing them of Miss Barrow's death and inviting them to the funeral, the post office was certain that no such letter could have been sent without being received by them. Moreover, he kept little Ernie Grant from school as if to prevent his telling the relations' children of Miss Barrow's death.

This and the loss of the letter, of course, might have been a coincidence, and Seddon's financial methods before and after Miss Barrow's death were in accordance with his grasping nature. But neither coincidence nor sharp financial practice could explain the presence of arsenic in Miss Barrow's body. The prosecution did not profess to know how this arsenic had been administered, but it was suggested that Seddon had boiled fly-papers and extracted the poison from them. He or his wife, it was then alleged, had given it to her over a period of time either in her food and drink or in medicines.

There was no satisfactory evidence that Seddon had ever been in possession of arsenic in any form except the fly-papers, and in regard to these there was considerable doubt. Mrs. Seddon admitted purchasing fly-papers at Miss Barrow's request after the beginning of her last illness, but not before it. The police were put on the track of the fly-papers by a curious action on Seddon's own part after his arrest; he persuaded his solicitor to send Maggie Seddon, the daughter, to a chemist to buy fly-papers in order, it was explained, to test them for arsenic: he suggested that Miss Barrow might have poisoned herself by drinking water in which arsenical fly-papers had been soaked. There is a theory that Seddon wished to put the police on a false trail, having really used weed-killer or some other form of arsenic for the murder; but, if so, it was a very stupid move. For one thing, it enabled the police to obtain an identification from a chemist of Maggie Seddon as a girl who bought a similar packet of fly-papers a week before Miss Barrow fell ill. It must be said at once that this identification was most unsatisfactory, because the chemist's memory was never clear, and, moreover, he knew Maggie Seddon as a friend of his own daughter and had seen her photograph in the Press before he made his identification.

The prosecution had not a very strong case. The moment it

closed, Marshall Hall submitted to the Judge, on behalf of the male prisoner, that there was no case to go to the jury. He argued that there was considerable doubt as to whether sufficient arsenic had been found in Miss Barrow's body to ensure that this was the cause of her death. That some arsenic had been found in it, he agreed; but this might have been absorbed by her in some of the patent medicines to which she was addicted or even as an accidental adulteration of the doctor's prescriptions. Marshall Hall did not attempt to exonerate Seddon from meanness in his relations with Miss Barrow, and he seemed disposed to admit that his client might have rifled her cash-box after her death; but this was not the offence charged against Seddon. He pointed out that the only evidence that Seddon had ever touched Miss Barrow's food or drink was the testimony of the little boy, Ernie Grant, who had seen him mixing a white effervescent medicine for her which, counsel pointed out, would have become discoloured if arsenic had been mixed with it. Otherwise, Marshall Hall said, there was no sort of evidence pointing to Seddon's guilt, and he asked the Judge to stop the trial.

Mr. Rentoul, for Mrs. Seddon, associated himself with the submission, commenting that, weak as the evidence was against Seddon, it was infinitely weaker still against his client. Mr. Justice Bucknill, however, ordered the trial to proceed, and Marshall Hall opened the case for the defence.

He expanded his criticism of the prosecution's case and the police methods by which part of it had been secured, and, as well, denied the adequacy of the scientific tests by which the amount of arsenic in Miss Barrow's body had been estimated. But the real centre of his argument was that, if Seddon had been the cunning, calculating rogue that the prosecution alleged him to be, he would never have behaved as he did after the woman's death. For one thing he would have disguised his financial cunning a little more effectively, and, more important still, he would surely have had the body cremated, in which event the arsenic could never have been discovered in it.

Then Seddon himself gave evidence, and sealed his own fate. It was not that he failed vigorously to proclaim his innocence and deny all the charges brought against him, but that he did this in

such a way as to cut the ground from under his counsel's feet. By the time he left the witness-box, the jury might well believe—as they certainly did—that he was much too proud of his financial cunning to dream of disguising it in any circumstances, and that he was so avaricious and parsimonious that, rather than pay the cost of a cremation, he preferred the risk of having the body exhumed from the cheap grave to which he had consigned it. Nothing could have been more disastrous to himself.

Take, for instance, the matter of his arrangement with the undertaker, bearing in mind that, during the past few months, he had obtained £4,000 from Miss Barrow, was now relieved from the necessity of paying her any more instalments of the annuity, and lay under grave suspicion of rifling her cash-box to the tune of £200. Seddon admitted blandly that he arranged for a cheap funeral in a public grave, to cost only four pounds, and that out of this meagre sum he had taken back twelve shillings from the undertaker as his own commission on the deal; and he explained, as if the explanation ought to suffice, that "If an agent was on commission for to sell sewing-machines, and he bought one himself, he would have the commission on it." The jury were bound to draw the conclusion from this that Seddon regarded Miss Barrow's corpse in the same light as a sewing-machine, that is, as a means of making money. And if he thought fit to treat her dead body so unkindly, for the sake of a few shillings, might he not have poisoned her when alive in order to save hundreds of pounds?

In vain, after this, Marshall Hall repeated his exposure of the weakness of the prosecution's case and its reliance on surmise and conjecture; in vain he offered Seddon's explanation of the presence of arsenic in Miss Barrow's body, that she might have drunk by mistake the water in which the fly-papers were soaking in her room; in vain he warned the jury against disliking the prisoner because of his greed. Seddon was found guilty, but his wife not guilty, the jury evidently recognizing that the circumstantial evidence could not possibly be stretched far enough to include her as a consenting party to her husband's crime.

Seddon kissed his wife passionately before she was carried out of the dock, and then made a statement to the Court, in which once again he offered figures of his various accounts at the bank

as if this was the crucial point. He was on stronger ground when he pointed out how impossible it was for him to prove his innocence:

"I am surrounded by a set of circumstances from which there seems no way of extricating myself if I am to be condemned on circumstantial evidence. . . . In this way, had Miss Barrow thrown herself out through the bedroom window, I would have been believed to have thrown her out or pushed her out through the window. Had Miss Barrow fallen downstairs, the same thing would have applied. When she went to Southend-on-Sea, had she fallen into the sea, Mr. Seddon would have pushed her into the sea. The same set of circumstances would have operated against me. I can see through it."

And he ended this speech with almost the first sign of emotion he had shown since the beginning of the trial. He raised his hand in the air and, as a Mason, cried, "I declare before the Great Architect of the Universe that I am not guilty, my lord." Mr. Justice Bucknill, who was also a Mason, began to weep as the black cap was placed on his wig. He delivered sentence with these prefatory words, which are perhaps the most concise picture of the crime that can be painted: "Frederick Henry Seddon, you have been found guilty of the wilful murder of Eliza Mary Barrow, and with that verdict I am bound to say that I agree. . . . Even if what you say is strictly correct, that there is no evidence that you were ever left at a material time alone with the deceased woman, there is still in my opinion ample evidence to show that you had the opportunity of putting poison into her food or into her medicine. You have a motive for this crime. That motive was the greed of gold. Whether it was that you wished to put an end to the annuities or not, I know not. Only you can know that. Whether it was to get the gold which was or was not, but which you thought was, in the cash-box, I do not know. But I think I do know this, that you wanted to make a great pecuniary profit by felonious means."

The Judge then referred to Seddon's Masonic gesture. "From what you have said," he went on, "you and I know that we both belong to one Brotherhood, and it is all the more painful to me to have to say what I am saying. But our Brotherhood does not encourage crime; on the contrary, it condemns it. I pray you again to make your peace with the Great Architect of the Universe.

. . . It may be some consolation to you to know that I agree with the verdict which the jury has passed with regard to your wife. . . . Whatever she has done that was blameworthy in this case, short of any criminal offence, if there was anything, I feel that she did to help you, not to murder but, it may be, at some time to deal improperly with those bank-notes——"

Seddon interrupted him. "She has done nothing wrong, sir," he exclaimed.

"I am satisfied," the Judge continued, "that the jury have done well and rightly in acquitting her. I am satisfied that they have done justice to you."

Seddon continued to protest his innocence to the end, not forgetting to put forward still more financial arguments in regard to the alleged theft from Miss Barrow's cash-box. It never seemed to occur to the wretched man that this obsession with financial details was the very characteristic which, more than any other, had made the jury certain of his guilt. The Court of Criminal Appeal dismissed his appeal, and he was hanged on 18th April. A horrible sequel to the affair was a statement which Mrs. Seddon gave to the Press a few months later, on the eve of her departure for America, in which she said that she saw her husband poison Miss Barrow and that he made his wife keep silent by threatening to kill her also. She soon retracted this accusation, with the curious explanation that she had made it, not merely to defend herself against gossip, but to get money for it. Evidently, the "greed of gold." to which the Judge referred, was not confined to Seddon alone.

There are still many people who are not satisfied that Seddon was justly condemned. For a considerable time I thought as they do, for I happened by chance to be brought into contact with some members of the Seddon family whose remarks seemed to put a very different complexion on the matter. Moreover, there is always much room for doubt wherever so large a proportion of circumstantial evidence enters into a case. It is all very well to argue that circumstantial evidence is often more reliable than the direct evidence of eye-witnesses who are so easily mistaken in their impressions and memory: theoretically this is true, but I have noticed that, in a Court, any fragment of direct eye-witness testimony is often given more weight than is attached to circumstantial

evidence, however seemingly complete. At the same time, now that I have examined the case again and read again all the evidence and the arguments which were presented at the trial, I cannot help feeling that my early impressions, based on partial and unsifted statements, were mistaken and that the verdict of the jury was correct.

Apart from this sensational trial, Travers Humphreys was very busily engaged about this time in masses of prosecutions for evasions of the new compulsory Insurance Acts. The Suffragette movement also brought him much work: day after day he had to go into court and prosecute women, and sometimes men, for more or less serious offences designed to draw public attention to their desire for the female vote. In addition, of course, he had his ever-growing licensing practice and was engaged in numerous public prosecutions not worth description here. He was soon, however, prominent in a case which attracted considerable public interest.

This may be prefaced with a reminder that he was once invited to take part in a debate "Is Truth stranger than Fiction?" He spoke for the Ayes, and, to support his argument, he described this case which came to him in the course of his work in 1913, when he was briefed by the Crown to prosecute four men, Joseph Grizard, James Lockett, Simon Silverman and Leiser Gutwirth, for stealing and receiving sixty-four pearls and a diamond clasp, being "the chattels and property of His Majesty's Postmaster-General" and of a very prominent dealer in jewellery, Max Mayer, of 88 Hatton Garden, London.

The case began at the Old Bailey on 17th November. Humphreys was led by the late Sir Richard Muir; George Elliott, K.C., appeared for Grizard, Mr. (now Sir) Henry Curtis-Bennett for Lockett, Mr. Valetta for Silverman, and Walter Frampton for Gutwirth. Mr. Justice Lawrence (later Lord Trevethin and Lord Chief Justice) presided. The trial lasted for six days, apart from the subsequent appeal.

To say that the truth of this episode was stranger than fiction is perhaps an exaggeration, but it was certainly stranger than the facts of most criminal trials. The story began in July of the same year, when a French diamond merchant sent a small registered parcel to his employer, Mr. Max Mayer, of 88 Hatton Garden.

The parcel contained one of the most beautiful pearl necklaces ever put together; the necklace was valued at £130,000 or £150,000 because of the superb quality of the individual pearls and because of their symmetrical grading. That they were sent simply by registered post is not as fantastic as might appear: it was considered safer to send them this way without any special sort of identifying mark than to despatch them by hand and so risk their carrier being set on by thieves. Every parcel received, registered, sent by train and boat and train again, sorted, given to a postman for delivery, and delivered by him was watched and signed for at every stage of its journey: better security could not be looked for by any other method. However, when Mr. Mayer's clerks opened the parcel next day, they discovered inside it, in place of the enormously valuable necklace, merely the leather case, a fragment of newspaper and some lumps of sugar—French sugar.

Instantly there was a hue and cry after the lost jewels. The French Post Office proved beyond a shadow of doubt that, unless several of its trusted officials were engaged in a conspiracy—a very foolish conspiracy, since suspicion must be directed to them first —the packet could not have been tampered with before it was handed over to the British Post Office. And the British officials were equally certain that nobody could have interfered with it before it left the Eastern Central District Post Office for delivery to Mr. Mayer. It had been suggested at one stage of the preliminary inquiries that perhaps the necklace had never been sent, but the sender's integrity was vouched for by everybody who knew him. Another red-herring, namely, that a sorter on the train between Dover and London had noticed something wrong with the packet was also set aside as an error on his part.

The first gleam of light on a perplexing mystery came from a Hammersmith engraver who, seeing in a newspaper a picture of the seals on the packet, sent an anonymous letter to the police. He was found by a newspaper advertisement and then stated that he had made a die a few weeks before which was identical with the seal: he did not know the name of his customer, but he suspected that the seal had been ordered for the purpose of resealing the packet after its contents had been removed and the sugar substituted. However, the substitution might still have taken

place in either France or England—France because the sugar was French and the new seal could have been taken over there or England because the seal had been made in London and the sugar could have been brought over here. The postman who delivered registered packets in Hatton Garden on the morning of the theft was closely questioned. At first he insisted that the packet containing the necklace (or the sugar) had not been taken into any building until he handed it to the porter at Mayer's office, but had been left in a bag with his assistant while other letters and packets were delivered at other offices. Eventually, however, he admitted that the packet might have been in a bag which he took into the building where a certain Silverman, a diamond merchant, had his office: the police were especially interested in this suggestion because, they discovered, Silverman had made a request to the Post Office a fortnight before the theft that his post should in future be delivered to him personally at his office instead of being handed over, as before, to the porter. What was more, Silverman had lately taken to arriving at his office at eight o'clock instead of at half-past nine or ten. Though the postman continued vigorously to deny that Silverman or anybody else had an opportunity to tamper with the packet before it was delivered to Mayer's, the police began to take an interest both in him and in Silverman.

They discovered that the postman had a record of intemperance, but of nothing worse; while Silverman, who was a little hunchback, had no police record whatever, and was certainly engaged in a legitimate business, though a small one. There was, in short, still no sort of clue how or where or by whom the substitution of the pearls with sugar had taken place, or who was responsible for a very brilliant and well-planned theft. On the other hand, the thief was sure to try to sell the necklace sooner or later, and its description had been circulated throughout the trade. Even if he enormously decreased the value of his booty by trying to market the pearls separately, still the description of them was so precise and unmistakable that no honest purchaser could possibly be deceived. The police were confident, therefore, that before very long an attempt at a sale would be made, and then, unless the thief were fortunate enough to find an equally dishonest purchaser, and one equally capable of covering his tracks, there was a very

good chance that the necklace would be traced and an opportunity given to find the original thief.

But it was not the police who were responsible for the next stages in this extraordinary story. The protagonists were two young Parisian Jews, cousins engaged in the jewel trade, named Brandstatter and Quadratstein. Brandstatter happened to go to Antwerp on business rather more than a fortnight after the theft, and to meet there a distant relation, Leiser Gutwirth, an Austrian Jew who was in the same trade in London. Gutwirth, who was suspected by the English police of being an occasional receiver of stolen jewels, told Brandstatter that he had an exceptional offer to make him worth at least a million francs—and the franc was then only twenty-five to the pound. Gutwirth finally hinted that the offer concerned the stolen necklace, which, he said, was in the hands of a friend in London. Brandstatter returned to Paris and consulted his cousin, Quadratstein, and they decided to follow up this avenue with a view to recovering the necklace for its proper owners and winning the £10,000 reward which the underwriters were offering for it.

After correspondence with Gutwirth, they crossed to London and, at his house, were introduced to the master-mind of the conspiracy, none other than the notorious Cammi Grizard whom Mr. Travers Humphreys, as the reader may recall, had unsuccessfully prosecuted for receiving stolen goods three years before. Silverman was also present at the interview, but the pearls were not. As the young Frenchman, who pretended to have a prospective customer in view, insisted on seeing the pearls, they stayed the night with Gutwirth and next day were taken to a tea-shop in Holborn by him and Grizard. After some conversation, a man in a cap entered, sat at a neighbouring table, and, when Grizard casually asked for a match, threw a match-box on the table where the four men were sitting. It contained the three choicest pearls from the stolen necklace, and the man in the cap was James Lockett, a convicted burglar and associate of thieves. They afterwards went to Hatton Garden and weighed the pearls, so that the Frenchmen were able to recognize them as part of the necklace; another appointment was made for a few days later, at which, it was suggested, the final arrangement for the sale could be made.

The Frenchmen then cautiously got into touch with the underwriters and began to work under their guidance.

At the subsequent interview, which took place at the First Avenue Hotel in High Holborn, a new character was introduced, in the person of a Mr. Spanier, a naturalized Englishman of French birth, whom the underwriters invited to play the part of a would-be purchaser of the stolen property. (Incidentally, such was the atmosphere surrounding this whole episode that Mr. Spanier was asked to satisfy himself and the underwriters that the young Frenchmen were honourable men and not confederates of the thieves; and he did so.) The first meeting between Spanier and the others was unproductive, since Grizard had no intention of walking into any trap: he explained that the holder of the jewels was unable to be present, but, apparently satisfied with Mr. Spanier's good faith—if this term may be used of a man who is pretending to be a receiver—undertook to show him the jewels at their next meeting after the week-end.

A fresh hitch occurred, however, because Mr. Spanier, who was carrying a hundred thousand francs (provided by the underwriters) as a first instalment of the purchase money, refused to let himself be taken by Grizard and the others to Lockett's house at Golder's Green, for fear, he explained, lest he were trapped and robbed there or, alternatively, handed over to the police; he even played his role as a receiver so thoroughly as to suggest that Grizard might be a policeman in disguise! But they all met again in the afternoon and went up to the room which the two French youths occupied at the First Avenue Hotel. The pearls were there produced by Grizard, who asked for them a million francs, or forty thousand pounds, which, as we know, was only about a third of their real value. As Mr. Spanier had not enough money with him, and as, moreover, there was no means of arresting the criminals at this moment with the rest of the pearls in their possession, he bought two of the best with his hundred thousand francs and arranged to buy some more at another meeting in a few days' time. The important thing, he recognized, was to satisfy the underwriters and the police that these were two of the pearls which had been stolen, and to keep the thieves in play.

Mr. Spanier afterwards told a friend of mine that it was a nerve-

racking experience for him to be sitting there with the thieves, who might, he feared, at any moment turn on him and rob him of the money, as well, possibly, as kill him. His natural nervousness on this account probably produced just the right impression on the gang, namely, that he was really engaged in shady business and very frightened of its risks.

The stage was set for the final and decisive interview. Police surrounded the First Avenue hotel and prepared to catch the thieves red-handed when they again disclosed the necklace to Mr. Spanier and his two French allies. But something went wrong; Cammi Grizard, probably warned by one of his men who acted as his bodyguard, refused to enter the trap and, instead, set members of his gang, which included a considerable force of minor members, to shadow the police who were shadowing him. It would, of course, have been easy to arrest the ringleaders, but the authorities were anxious not to lose the necklace in the round-up. Grizard was frankly suspicious, and Mr. Spanier thought it best to drop out. In his place, the young Frenchmen invented an Indian rajah who was willing to buy the necklace. And so, after one or two more abortive meetings, they all met in the British Museum tube station, on the way to a mysterious public-house where the transaction was to take place. The Frenchmen pretended to have the money with them, and it was taken for granted that Grizard or one of the others would have the jewels. Just as they emerged on the tube platform the police pounced on them and Grizard, Lockett and Silverman were arrested. Gutwirth was arrested in Hatton Garden an hour later.

Then a most regrettable discovery was made: *the jewels were not, after all, in the prisoners' possession!* Nor were they to be found at Grizard's highly respectable home in Dalston, or in Gutwirth's safe at the Chancery Lane Safe Deposit, or in Silverman's office (though the police discovered there certain evidence linking the gang with the innocent Hammersmith engraver who had made the seals for resealing the original packet), or in Gutwirth's house, or Silverman's house, or Lockett's, or elsewhere. The pearls had vanished. It was not until a fortnight after the arrests that a carpenter, walking down a Highbury street, picked up a small brown-paper parcel from the gutter, in which he found

a match-box containing the pearls. He did not realize their value, and it is on record that he threw one of them away as a worthless marble! However, in the course of the day, the identity of the others was recognized.

It became clear enough in the course of the trial how the theft was done. The registered packet had been carefully unsealed in Silverman's office, the jewels removed and the sugar put in their place, and the packet as carefully resealed. The postman, however, was not called by the prosecution. It was shown also that Lockett, Grizard and Gutwirth had frequently visited Silverman's office. Then the Hammersmith engraver identified Silverman as the individual who had ordered the seal. Among other witnesses the two French amateur detectives, who duly received the underwriters' reward, Mr. Spanier, and other actors in the search described their experiences and easily withstood the skilful cross-examination of counsel for the prisoners. Silverman's counsel called the postman and, eliciting from him the fact that he was still in Post Office employment (from which, by the way, he was afterwards discharged for drunkenness), suggested that this tended to disprove the prosecution's theory of how the theft was done. The postman, however, came poorly out of the prosecution's cross-examination, and his evidence did not really shake the strength of the Crown case.

In view of this strength there was very little that their counsel could say for the prisoners, though Grizard's line was that, far from being the prime instigator of the whole business, he was a victim of ill-luck, who had been placed in an awkward position by the fact that he, an Englishman largely ignorant of other tongues, had understood little of the Yiddish, German and French conversation in which the transactions had been conducted by the others, both the thieves and the Quadratsteins and Spanier. Unfortunately for the effect of this on the Judge and jury, his leading counsel, Mr. George Elliott, K.C., made a slip when he hurried into Court to make his speech for his client: he began by referring to him in a superb French accent as "Monsieur Georges Grizar'." From that moment Grizard's hopes perceptibly drooped. It took the jury only eleven minutes to return a verdict of Guilty against all the prisoners, and they were duly sentenced, Grizard



Photo : Daily Mirror.

"TRUTH STRANGER THAN FICTION"—thus Travers Humphreys has described the incidents which led to these four men being charged with stealing the famous Mayer pearl-necklace. "Cammi" Grizard was the most remarkable planner of crimes known to the British police. His tools, Gutwirth and Silverman, were Hatton Garden jewellers, and Lockett was a burglar.

to seven years' penal servitude, Lockett to the same, Silverman to five years and Gutwirth to eighteen months. The last two, as aliens, were recommended to expulsion from the country when they came out of prison.

They appealed in December against their conviction, but the Court, consisting of the Lord Chief Justice, Lord Reading, and Lords Justice Bray and Lush dismissed the appeal.

Two curious pieces of information have been given to me about this case and, while it is impossible to-day to determine their truth, they both seem highly probable. First, it is suggested that Grizard and his accomplices never meant to steal the famous pearl necklace. They had, of course, laid their plans to rob Max Mayer's mail, but they were angling for plunder more negotiable than a necklace so unique and so easily identifiable. They were, I am told, horrified when they found that the stolen packet contained it, and their first impulse was to replace it and, thus averting suspicion, to wait for another packet to arrive from Paris. But greed overcame them, and led to their eventual undoing.

Secondly, why was the necklace finally thrown away in a Highbury gutter in the match-box which the carpenter picked up? I understand that it was thrown there by a woman connected with one of the prisoners, and that she timed her action so that the packet should be picked up by a policeman who was approaching. She presumably hoped that the discovery of the pearls would stop the police from instituting too many inquiries into the four men's personal affairs, and might even mitigate their punishment. Unfortunately for her intentions, the carpenter intervened and the necklace was nearly lost for ever.

There can be no doubt about Grizard's being the brains of the whole affair. He had been known for years to the police as the instigator of innumerable thefts of jewels and perhaps of other things, and as the receiver and disposer of the booty, but, except for the occasion when Travers Humphreys succeeded in laying him by the heels in 1910, he had hitherto managed to avoid punishment. Some idea of his quick wits may be gained from an incident in the Goldschmidt jewel robbery which has been described in a previous chapter. Grizard and his cronies were at dinner in his house when the police arrived with a search-warrant, looking

for the stolen jewels. Grizard and the others sat at the table until the search was discontinued and the police departed without having found anything; then Grizard calmly finished the pea-soup in his plate and showed, at the bottom of it, the jewels, which he had dropped there the moment the police arrived. One reason for his success in evading the law for so long was that, unlike most of his kind, he played fair by his confederates who, in return, refused ever to give him away. Moreover, he had built up a large gang of confederates who were invaluable assistants to him. He was, however, a very sick man with diabetes when he planned the robbery for which he was condemned. He survived his imprisonment, but seems to have lost his cunning when he again took up his old occupation. In 1922 he was sent to jail again and died in the following year, leaving the underworld of Europe the poorer for one of its most outstanding and, perhaps, most sympathetic figures.

A pleasant and unusual interlude in Humphreys's practice came about this time when he was briefed by a firm of solicitors in Kingston, Jamaica, to defend a man accused there of murder. He made the journey across the Atlantic, was admitted to the local Bar, fought the Attorney-General of Jamaica, and won the case. As a sequel to this success, he was again briefed by the same firm a year or so later to defend another client in the same court. This time the Attorney-General did not cross swords with him: instead, the case was withdrawn, and the accused and his solicitors met Travers Humphreys in New York and saved him the trouble of completing his journey.

The horror of August 1914 cast a shadow before it when, in January 1913, Travers Humphreys, led by the Solicitor-General and Archibald Bodkin, prosecuted George Charles Parrott under the Official Secrets Act for communicating information likely to be useful to an enemy to a person unknown, at Ostend in the previous summer. The "person unknown" was a German agent, and Parrott, a warrant officer in the Royal Navy, was accused of providing him with information about the positions, armaments and equipment of various units of the Fleet.

Parrott entered the Navy as a lad in 1887; at the time of his offence, he had risen to warrant rank at the age of forty-one, and

was in charge of the rifle-range at Sheerness. Previously he had been concerned as a gunnery expert with the building and equipment of the battleship *Agamemnon*, of which he then became the senior gunner. His pay and allowances amounted to £260 a year. Certain leakages of information to Germany had come to the notice of the Admiralty, and Parrott was one of the people under suspicion. When, therefore, on 11th July, 1912, he asked for a fortnight's leave in order, as he said, to go to Devonport, he was immediately placed under observation. His first move, when he obtained leave, was to send a telegram to a certain "Richard Dinger" at an address in Berlin, with the words, "Coming eight o'clock Saturday." He signed it "Seymour."

Instead of going to Devonport, he changed into civilian clothes and went to Dover, where he bought a ticket by the afternoon boat to Ostend. A detective questioned him at the gangway on the Admiralty Pier, and Parrott, giving his correct name, said that he was a civilian living in Chatham. But, when he was searched, two papers were found on him, one of them a naval form of no intrinsic importance and the other a scrap torn from a letter with a foreign address and the words, "With much love, Yours, Richard." The detective confronted him with the form, and Parrott admitted that he was in the Navy, though he assured the detective that he was unaware that, as a serving officer, he was forbidden to leave the country without special permission. As for the letter, he explained that "Richard" was the *nom de plume* of a lady with whom he was to spend a few hours in Ostend, and the address was hers also. He begged the detective not to make any further inquiries which might reveal to his wife that he was carrying on an affair with another woman; the detective, who had his orders, pretended to be satisfied and let Parrott board the boat.

Another detective, however, was on board, waiting to follow him when he landed in Belgium. There he was seen to enter the maritime railway station and fall into step with a man of foreign appearance, with whom he crossed the town and talked for two hours on a bench in a secluded spot. There was no trace of the lady whose company he claimed to be about to enjoy, and, after the conversation, Parrott took the evening boat back to

Dover, where he was again questioned. He told the same story as before, except that he now said that he had spent the afternoon with the girl, whom he had originally met at the Palace Theatre in London and from whom, after a pleasant evening together, he had received the promise of more favours in the future. He was court-martialled for going abroad without permission, and dismissed from the Navy.

He moved to London and began to receive letters under the name of "G. Couch" at an accommodation address in Chelsea. In November he was arrested as he came to fetch one of these letters and taken by the police to his house in Battersea, which was searched. Thirty-five pounds in gold were found there and the return half of a railway-ticket from Grimsby Docks to London, of a type issued to passengers coming by sea from Hamburg. The letter was then opened in his presence, and proved, as was expected, to be from "Richard." It contained a number of questions about the disposition of the Home Fleet and the speed with which reserves could be called up: Parrott was asked by his correspondent to "have the kindness to leave as soon as possible for the Firth of Forth," and two five-pound notes were enclosed for his expenses.

An examination of his banking account showed that he had lately received fourteen five-pound notes, some of which could be shown to have circulated in Germany. It was also proved that, in the three months since he had left the Navy, he had paid visits to Hamburg and Flushing.

In his defence Parrott elaborated his story about the mysterious girl: it is interesting to note that this story seems to have served as a model for the defence in the Baillie-Stewart case twenty years later. The girl's name, Parrott said, was Roma, and he had given her his own name as "Seymour" in order that she might not discover that he was a married man and so cause him trouble at home. She had won his sympathy by explaining that she was fond of the sea, being the widow of a sea-captain, and was earning her living as a lady's travelling companion: her permanent address was in Berlin, and she invited him to write to her there as "Richard Dinger, Esq." They had arranged to meet whenever her travels should take her from Berlin to a foreign port conveniently near

England. Hearing from her that she would be in Ostend in August, he had confirmed the appointment by his telegram and gone off to meet her. He was disappointed not to find her on the quay, but a man had sidled up to him with the question, "Excuse me, is your name Seymour, and are you expecting to meet any one?" When Parrott told him that he hoped to meet a lady, the man said, "That's right: come with me, please."

Only when they were sitting on the bench did the man tell him that unfortunately the lady could not come.

"You belong to the Navy, don't you?" the man went on. "Do you like it?"

"Yes, I like the life," was Parrott's reply, according to his story.

After this the talk turned to other things, and Parrott told his companion about being searched in Dover on the way over, at which the man begged him, for the lady's sake, not to let her name be mixed up in any scandal. As this was in accord with his own desire for secrecy, to avoid domestic trouble, Parrott promised to protect the lady's reputation; this, he explained, was the reason why he had not told the exact truth on his return to England, and why from one little lie he had been driven to others. Then, he said, the man began to write to him, addressing the letters to a false name at the accommodation address in order again to prevent Parrott's wife from becoming suspicious. He invited Parrott to visit Hamburg, and there revealed himself as a journalist who would be grateful for information about British naval life. Parrott claimed that he had been completely taken in by the story, but had never sent any information which could be at all useful to an enemy of this country. As for the bank-notes which had reached him from Germany, these, he explained, were in repayment of a loan which he had made some time previously to a German family who used to live in Sheerness.

Mr. J. D. Cassels then made a brilliant speech to the jury in Parrott's defence, on which Mr. Justice Darling afterwards congratulated him. After emphasizing the likelihood of Parrott's present story being true—the previous lies were to be explained, he said, by his client's fear of trouble with his wife over the foreign woman—he went on to show that Parrott, though in the Navy,

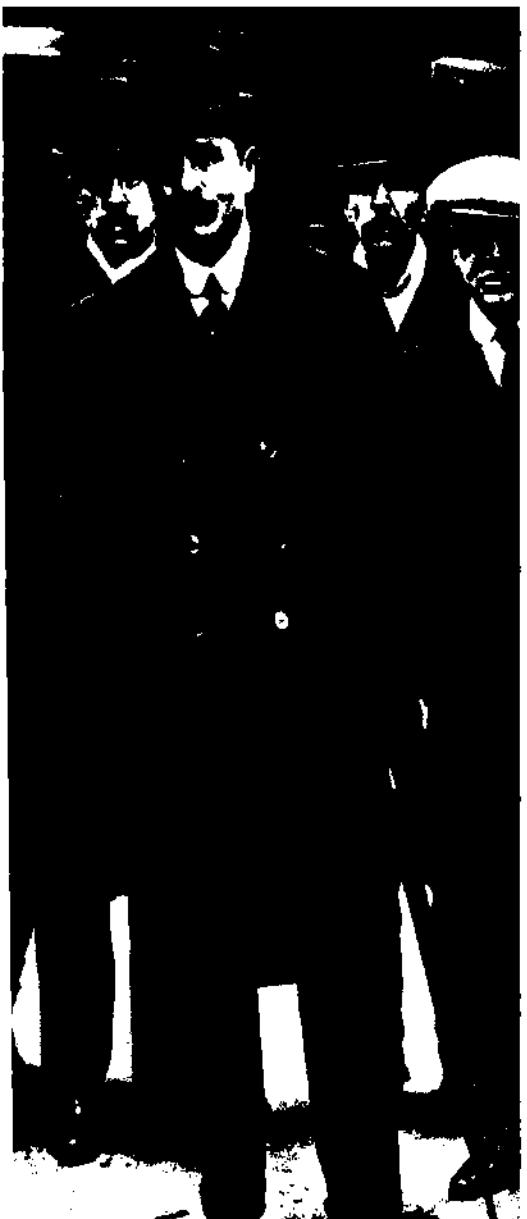
had not in fact been on board a warship for two years, while the *Agamemnon* was now, since the building of the Dreadnoughts, an out-of-date vessel about which no information could possibly be useful to a foreign Admiralty.

The jury, however, found Parrott guilty, and Mr. Justice Darling sentenced him to four years' penal servitude. The Judge said he had little doubt that Parrott had originally been ensnared by a woman agent of a foreign State, and for this reason he was not giving him the maximum sentence of seven years. At the same time, the Judge went on, he thought it probable that Parrott had been sending information abroad for a longer period than was covered by the case for the prosecution, and he urged him to tell the authorities everything he knew about the foreign organization that had employed him, in which case the Judge undertook to endeavour to have the sentence reduced. If Parrott took this advice, it was not until he had appealed against the conviction and had his appeal dismissed by the higher Court.

A little later in this year, Travers Humphreys was concerned in the prosecution of no less prominent a member of the legal profession than Arthur Newton, the solicitor who had arranged the defence of innumerable prisoners, among them Crippen and other murderers, and who incidentally was largely responsible for giving Marshall Hall the opportunity to make his reputation as a counsel for the defence. For many years Newton had stood almost alone in his special type of practice, but conceit and extravagant living had at last brought him to the commission of a crime which, in its very transparence, was unworthy of his clever brain.

He was charged at the Old Bailey with a man named Berkely Bennett with conspiracy to defraud a young Austrian, Herr Thorsch, who had recently come into a large fortune. It was alleged that they had fraudulently obtained from Thorsch two sums of £5,000 and £3,500 and two cheques for £5,000. There was no doubt that he had paid them these sums, but the question was whether he was the victim of a criminal trick. The prosecution outlined a somewhat complicated story, beginning in 1911, two years previously, when Thorsch was on a visit to London. There he was introduced to a Count Festetics, who boasted to him of knowing Mr. Gordon Bennett, the famous millionaire proprietor

SOLICITOR AND SWINDLER



Arthur Newton was a brilliant London solicitor in criminal cases. He helped to launch Marshall Hall as an advocate, and was associated with innumerable causes célèbres, including Crippen's, as solicitor for the defence. He was charged in 1913 with fraud.

Photo : London News Agency.

of the *New York Herald*. Then Festetics in turn introduced Thorsch to the two defendants, implying—wholly without justification—that this Bennett was a relation of Mr. Gordon Bennett. Bennett talked grandly of forests which he owned in Canada suitable for making pulp for newsprint: he had already 60,000 acres, he said, and an option on another 40,000 at a cheap price, and he was generously willing to allow his friends to purchase 25,000 of these at the same cheap price. In the usual manner, it was stated, the Count and Newton both expressed joy at this generosity, and Thorsch, not to be behindhand, handed a cheque to Newton for £5,000 in order to share in the windfall. He also agreed to go shares with the Count in buying another block of the forests, and paid him £3,500. Bennett then left for Canada with the avowed intention of picking out the most profitable sections of the forests for his dear friends, while Newton paid both cheques into his account at a bank.

Actually Bennett owned no forests at all before he crossed the Atlantic, but he later succeeded in buying 3,200 acres at half the price he had quoted. On his return to London, a celebration was held at the Café Royal, when Bennett announced that land was rapidly rising in value in Canada and so he had very shrewdly bought more for his friends than they had anticipated. Count Festetics instantly expressed his gratitude, and Bennett soon succeeded in persuading Thorsch to part with another sum of £5,000. Thus the young Austrian had now parted with £13,000. The prosecution declared that, of this sum, only £3,900 was paid out in Canada, while Newton and the Count each pocketed £4,000 and Bennett took what remained. The Count would have been charged with the others, had he not recently left the country.

Newton conducted his own defence. He argued that he and his friends were fully entitled to make a profit out of the rich young man, provided that Thorsch too made a good bargain; and, he went on, he was prepared to show that the land was already worth more than Thorsch had paid out. As to his own profit and that of his associates, the solicitor added, had the jury ever heard in their lives of people letting a man they had known for only a week buy land at cost price? The crux of the case, he argued,

was the value of the land now in Thorsch's possession: if Thorsch had made a good bargain, then there was no crime involved in the affair.

Mr. Justice Ridley, however, ruled that the present or future value of the land was not the question at issue, and said that he was not going into the future of Canada to decide the case. He asked the jury to answer this question: Was the money which the defendants had admittedly pocketed legitimate profit or not? The jury after an hour and a half's retirement found both prisoners guilty, and the prosecution, referring to Newton's past career, revealed that he had recently been suspended for twelve months from practising as a solicitor because, as Crippen's legal representative, he had abused information given to him and published false statements in the Press.* The Judge then sentenced him to three years' penal servitude, and his accomplice, Bennett, to eighteen months' imprisonment with hard labour.

Both appealed, on the ground that the Judge ought to have allowed evidence to be given about the value of the land; but the Court of Criminal Appeal held that the Judge was right and that the sentences erred, if at all, on the side of leniency. Newton was subsequently struck off the rolls, and a sensational career ended in disgrace. He has been dead now for some years.

The name of Ernest Terah Hooley is known even to the post-War generation, and he is still alive and active. But this generation cannot possibly realize the enormous part he played in the financial and company-promoting spheres at the end of last century and during the first twelve years of this. A self-made man, he trafficked in millions and made millions. He consorted with princes (and princesses), patronized Governments, owned more than one of the finest houses in the Midlands, acted as the High Sheriff of a Midland county, poured money into the chests of the Conservative

* Newton's financial methods were always peculiar. Thus, after a trial in which he, with Marshall Hall's advocacy, had secured the acquittal of an alleged murderess, she employed another solicitor to ask him for an account of the sums which the public had subscribed and sent him for her defence: Newton replied simply, "Dear Sir, We saved your client from the gallows. Yours sincerely, Arthur Newton."

On another occasion, when a barrister applied to him for the payment of his fees, Newton suggested that the barrister should treat part of his (non-existent) debt to Newton as discharged! The implication was that the barrister had already been sufficiently paid by the publicity given to the case.

Party*—and went to jail in 1912 for defrauding a youth of a mere £2,000. It was one of Travers Humphreys's duties to assist in this prosecution, in which he was led by the Solicitor-General (Sir John Simon) and Richard Muir. The weight of counsel brought against Hooley in this case about a trumpery sum of money shows how anxious the authorities were to convict the former High Sheriff.

He appeared before Mr. Justice Phillimore at the Old Bailey on 7th February, 1912, charged with obtaining the money by false pretences from a Mr. George Leech Tweedale, a Rochdale engineer, and his solicitor, Mr. David Thompson. He was defended by T. M. Healy, K.C., the witty Irish Nationalist M.P., better known perhaps as "Tiger Tim," who afterwards became the first Governor-General of the Irish Free State.

Tweedale had come of age in October 1909 and so found himself in possession of £40,000, of which £27,500 represented easily negotiable securities. In October 1910 he was introduced to Hooley by James White, whom we have already met as the promoter of the Johnson–Burns fight, and within two months Hooley had relieved Tweedale of just on £20,000 of his securities. By the time the case was heard, the young man was faced with bankruptcy proceedings. He was not the only person by a long way who had cause to regret meeting the smooth-tongued Hooley and his friend, White.

True, Hooley had gone bankrupt for an enormous sum in 1898, but did not allow this set-back to interfere with his schemes, except that these had now necessarily to be on a smaller scale and conducted less directly. One of his pet methods was to arrange to

* He was due for a baronetcy at least in 1897 when he happened to go bankrupt. In the same year, he gave a gold communion-set to St. Paul's Cathedral to celebrate Queen Victoria's Diamond Jubilee: when his bankruptcy was announced, the Dean and Chapter raised the price of this gift and paid it into his estate for the benefit of his creditors.

Hooley was a cheerful individual. In 1922 he was again in the dock for certain cotton-mill swindles. While the jury were considering their verdict, one of his fellow-prisoners, confident that they would be acquitted, suggested to Hooley that they should send telegrams to their wives announcing their return home that evening. "Wire your wife that you'll be home this day—three years hence," Hooley replied. And he went on to tell his now horrified companion to be sure to get appointed to the prison laundry, because then he would be certain of a weekly change of underclothing! As it happened, the other prisoner *was* acquitted, but Hooley, as he anticipated, was found guilty.

purchase a huge property, persuade somebody else to pay the deposit, and to split up the land for building purposes and receive payment before the date to complete the original purchase fell due. When White introduced Tweedale to him, Hooley was preparing to sell his own famous house and estate, Risley Hall, an ancient place in the Midlands on which in his hey-day he had spent hundreds of thousands of pounds. He persuaded Tweedale that it would turn out a magnificent investment and arranged to accept £16,000 from him as the first instalment of the purchase-price in six months' time. Since, as has been noted, Tweedale paid him for other transactions in the interval £20,000 out of his negotiable fortune of £27,500, it became clear that the young man would be unable to raise even half of the £16,000 when the six months were up.

How was he to raise the remainder? With confiding innocence he took his troubles to Hooley, who at once suggested a way out. Hooley suggested that Tweedale should invest £6,000 of his remaining capital in another similar enterprise, the rewards of which would permit him to complete the first transaction and so to progress to even greater financial triumphs. The estate with which the new deal was concerned was Thorney Hall, in Nottinghamshire. Hooley pointed out what a bargain this would be at a price of £6,000 and asked for only £2,000 down. Tweedale was ready to agree but took the precaution of bringing his solicitor, Mr. Thompson, with him when he came to sign the agreement. The solicitor asked Hooley, as a matter of form, if the property was pledged in any direction and if he was free to sell it. Hooley said that he was, and signed a declaration to that effect. Soon afterwards it was discovered that Thorney Hall was in fact pledged as security for a debt of Hooley's, so that the form he had signed misrepresented the position. The prosecution claimed that he had done so deliberately, whereas Hooley insisted that he had signed the form without reading it through and had merely made an honest mistake. He also said that, despite its being pledged as security, he did retain the right to sell it. Incidentally, he was again served with a receiving order very shortly after the transaction.

When Hooley gave evidence, he burst into tears as he described

the selling-up of his old home, Risley Hall, by Tweedale. In regard to the specific charge against him he said he had signed the document hastily as he was running to catch a train, but not before he had asked his solicitor if it was in order for him to sign and been told that it was.

The prosecution took the opportunity to question him closely about his other negotiations with Tweedale. In regard to them, for example, Sir John Simon asked, "Is there any single transaction from first to last to which you can refer me, where you carried out the promises that were contained in the document you signed?"

"The whole thing was cancelled," Hooley answered.

The Judge insisted on an answer. "Is there one case in which you can say that the obligations you entered into were carried out?" he asked.

Hooley hedged again. "No, because they were cancelled at once."

"Will you kindly say," the Judge persisted, "whether it was done or not?"

"No," Hooley admitted.

And then Sir John Simon put another awkward question to him. "Will you kindly explain how it comes about that you should be paying £700 to White, who was acting as young Mr. Tweedale's adviser?"

At this point Hooley said that he was now willing to give Tweedale back his deposit of £2,000, but this offer did not help him to escape the net. Both the Judge and the prosecution began to inquire how it was that an undischarged bankrupt, with another receiving order out against him, should have so much money available. But it turned out that Hooley was not so foolish as appeared: he produced I.O.U.'s of Tweedale's for the amount, and said he was ready to hand them over to him if the charge were withdrawn. Sir John Simon asked to see the I.O.U.'s, but Hooley was at first reluctant to let them out of his hand. He asked the Judge if he should do so, and the Judge referred him to his counsel, who advised him to let Sir John handle them. But any hope that Hooley may have entertained from this offer was quickly extinguished: Mr. Justice Phillimore sternly reminded him that he was

in the dock on a criminal charge and could not bargain with the prosecution in court.

Mr. Healy put up a passionate defence for his client, contrasting Tweedale's "salt tears" for the loss of his money with Hooley's "tears of blood" for the loss of his home: "What was a beauteous pleasaunce, dear to Mr. Hooley, was rendered a ruin and a wreck." The whole transaction of which the prosecution complained, he said, was either a misunderstanding or a deliberate trick on the part of Tweedale's solicitor, Mr. Thompson. A shrewd solicitor like Mr. Thompson must have known what he was doing. Was it all a trick, devised to put pressure on Hooley afterwards in regard to the other properties they had been negotiating?

Sir John Simon, however, soon brought matters back to earth again. The only point for the jury to decide, he told them, was whether Hooley had represented that there were no charges on the Thorney Hall estate in order to induce Tweedale to make out the cheque for £2,000.

The Judge also emphasized that the only question at issue was whether the prisoner had said there were no charges on the estate; and the jury, after only half an hour's retirement, found Hooley guilty. Mr. Justice Phillimore sentenced him to twelve months' imprisonment in the second division, assuring him, however, that the popular belief that there was a vast difference in the scale of comforts between this and the third division was unfounded. After he came out of jail he began again to build up his fortunes and was for some time successful, until he again overstepped the limits of prudence and was sent to prison for three years for fraud. Travers Humphreys, however, was not concerned in that trial.

After Hooley, Humphreys was briefed against Bottomley, another man of the same type though presenting a different face to the public.

Whereas Hooley was a High Tory and a man of fashion, Bottomley preferred to pose as a democrat and a tribune of the mere man in the street. He was incidentally a far less capable financier, but he made up for this by the possession of an altogether remarkable legal brain and of all-round eloquence. For many years he was supposed to be an illegitimate son of Charles Bradlaugh, whom he somewhat resembled, but really he was the son of a tailor's

foreman, who ended his life as a lunatic, and of a sister of Bradlaugh's friend, George Holyoake, the founder of the Co-operative Movement. As a youth he was a shorthand reporter in the Law Courts, and so gained much of the legal capacity which distinguished him almost to the end of his career. Indeed, after his first appearance in the Courts, when he persuaded the jury of his innocence of any misconduct of the affairs of the Hansard Union, the Judge, Sir Henry Hawkins (who was by no means renowned for undue sympathy with men tried before him) sent for him and urged him to go to the Bar. Bottomley, however, preferred to remain a "lay lawyer," a company promoter and a demagogue. His companies failed with monotonous regularity and his pose as a political philanthropist, reinforced by his election as Member of Parliament for South Hackney, did not delude the watchful Director of Public Prosecutions. He managed to keep out of serious trouble until 1912, when he was charged at the Guildhall with fraudulent misrepresentation in respect of one of his companies, the Joint Stock and Finance Corporation.

Horace Avory, K.C., and Richard Muir (the chief Treasury Counsel) prosecuted. "Avory for law and Muir for facts," was an aphorism in the Temple, and the combination of the two men was expected to shatter Bottomley. The result of the trial, however, confounded expectation: Muir, the admitted master of facts, saw his case riddled by Bottomley's diabolically clever cross-examination of the witnesses, while all Avory's law did not avail. The trouble was that Avory for once lost his temper, while Bottomley insinuated that the prosecution was a political move to silence him as a critical M.P. The Alderman who tried the case was certainly not a supporter of the Liberal Government then in office, and lent a sympathetic ear to Bottomley's bombast. In fact, of course, the Government had no concern in the prosecution, and the then Director of Public Prosecutions resented the imputation that he had been influenced by political considerations.

The close of Bottomley's final speech is worth quoting, as a sample of his rhetoric. It may be remembered that the late Lord Birkenhead, who had no illusions about Bottomley's moral standing, remarked of him that he was the only man of his time (one may assume that "F.E." might have made a similar claim for himself)

who had excelled as a speaker in Parliament, in the courts, and on the public platform. Here is what Bottomley said:

"I am, Sir, one of those who believe that in these days such magisterial inquiries as the present are meant to be something more than formal steps. It was all very well in olden days, when they were not reported in the Press, when nobody could suffer much injury; but this inquiry has been practically a trial, and a very real thing indeed. The right of a magistrate to preside over such a trial as this is one of the oldest and perhaps the most honourable privileges of this City of London, and I say in conclusion that, Radical and democrat as I call myself, I am nevertheless one of those who have always revered the traditions, the prestige and the power of this Corporation. Therefore I do not hesitate to-day, hunted, hounded and harassed on all sides as I am, to come to you, Sir, as not the least respected and as one of the senior members of its Aldermanic Bench, to give me sanctuary."

The Alderman promptly gave his decision that there was no case to go for trial. A great whisper circulated through the City at this result, but it did not worry Bottomley, whose triumph over two of the greatest advocates of the day persuaded him that he had little to fear from the authorities, provided that he veiled his projects in sufficient obscurity to leave him with two avenues of escape—first, sufficiently complicated accounts to muddle the Crown witnesses, and, secondly, the opportunity to make impassioned speeches in court which would not merely secure his acquittal but would represent him to his myriad partisans and dupes outside as an honourable man whose devotion to the public welfare and hatred of cant and red-tape was the sole reason of his persecution by the authorities. We shall see in a later chapter how Travers Humphreys at last checkmated him: for the time being we need only mention the case in which both appeared in the spring of 1914, when Humphreys prosecuted him in connection with a lottery scheme.

On 6th May, 1914, Bottomley was charged at Bow Street police court, under the Lotteries Act of 1823, for having published in a weekly paper which he edited a proposal and scheme for the sale of tickets in a lottery called "The Derby Sweepstake" promoted by a certain Patrick O'Brien, resident in Lucerne, Switzer-

land. The publication complained of consisted of an article in his paper referring to this sweepstake and, as Travers Humphreys pointed out, the wording was tantamount to a proposal for the sale of tickets in it. Humphreys went on to say that, if his argument was right, Bottomley must be deemed to be a "rogue and vagabond" under the terms of the 1823 Act and liable to three months' imprisonment or a fine of fifty pounds. The article, which Humphreys read, pointed out that the tickets for the sweepstake cost half a crown each, or ten for a pound, and that there was a guaranteed cash prize of £50,000 for the drawer of the winning horse, and that £5,000 would be given to charities. The article concluded by stating that the draw would take place under Bottomley's personal supervision and vouching for the integrity of Mr. Patrick O'Brien.

Travers Humphreys claimed that the contents of this article, however thinly disguised under a pretence of giving mere information to the paper's readers, came within the definition of a proposal and scheme for the sale of tickets in a lottery as forbidden by the Act.

Bottomley's ingenious defence, which he conducted himself as usual, was that the article was just part of a public controversy on the general question of sweepstakes. He pointed to another part of the same issue of his paper, "Answers to Correspondents," as evidence that people were writing to him to inquire about the subject. To argue that this article could be construed as an infringement of the Act, he went on, was an insult to the Court; while the suggestion that he was a "rogue and vagabond," he declared passionately, was the most wicked and outrageous insult that even the Treasury had ever sought to hurl at him. Always with the endeavour to make it appear that he, the people's tribune, was being persecuted by the authorities, he asked the Court rhetorically to consider the following hypothesis. Suppose he had written a letter to the *Daily Mail*, and that paper had published it over his signature, in which he had incorporated the contents of the article, namely, that many people totally misconceived the nature of sweepstakes and that certain people at least—such as Patrick O'Brien—had no desire to swindle the public but were even guaranteeing the prize-money.... Would the Treasury have

summoned Lord Northcliffe, the proprietor of the *Daily Mail*, in respect of such a letter, charging his Lordship with publishing a proposal and scheme for the sale of tickets in a lottery and with being a rogue and vagabond? Bottomley flung out his hands in utter derision of any such thing being possible, and then asked pathetically why he, a Radical and democrat, should be treated differently from a Lord.

All his paper had sought to do, he explained, was to help the man in the street, who was not frightened of Hell-fire because he invested a few shillings in a sweepstake, in choosing a sweepstake which was reliable, honestly conducted and properly supervised.

The magistrate, Mr. Hopkins, took nearly a week to decide upon his judgment in the case. This was eventually that the question was not a new one, either for Bottomley or himself; that the law on the subject of lotteries cried aloud for revision on reasonable modern lines; but that, at the same time, the article in Bottomley's paper—by telling its readers what to pay, what to buy, and from whom to buy it—definitely gave them information, inspiration and encouragement to purchase. He therefore rejected Bottomley's contention that the article was merely a contribution to a public controversy and imposed a penalty of twenty-five pounds with five guineas costs.

On Bottomley's application, the magistrate consented to state a case, and this was heard a few months later by a Divisional Court of the King's Bench, consisting of Mr. Justice Darling, Mr. Justice Lawrence and Mr. Justice Sankey. Bottomley submitted to them that, if he had committed any offence at all, which he naturally denied, it was only that of advertising a lottery and not that of publishing a scheme for one. He also made the point that no evidence was given at the police court connecting him with the paper except that a policeman said he had seen Bottomley's name as its editor. Otherwise, said Bottomley, the only other evidence on which the magistrate had convicted him was "the testimony of my silence."

At this strange suggestion, Mr. Justice Darling asked him, "I suppose, Mr. Bottomley, if you had been accused of writing *Paradise Lost*, you would not have denied it?"

"Oh yes, I should," was the reply, typical of Bottomley's

capacity for impudent side-tracking. "I've written much better verses than that!"

Mr. Justice Darling, who was bamboozled by Bottomley more than once in their careers,* eventually gave judgment allowing the appeal. Mr. Justice Darling said that Bottomley had undoubtedly published an article favouring sweepstakes, but the question at issue was whether this article came within the terms of the 1823 Act so as to earn for its writer the degree of "rogue and vagabond." The Judge held that it did not. But he thought Bottomley would be guilty of an offence, under Statute of 1836, for advertising a lottery: for this the legal penalty was fifty pounds in respect of each advertisement in this instance, for each copy of the paper published!—but, as Mr. Justice Darling pointed out, Bottomley had not been charged in this case with this offence and so escaped the danger of a colossal penalty. The other two Judges concurred, and Bottomley went his way rejoicing at yet another triumph over the wicked authorities who were endeavouring to suppress the plain man's tribune.

The secret history of the case is interesting. Far from Bottomley being merely a journalistic signpost to an honestly conducted sweepstake, he was actually the proprietor and principal beneficiary of the "Derby Sweep." The nominal proprietor was only his dummy. Well over a quarter of a million pounds was received from subscribers all over the world, wherever Bottomley's paper circulated; the draw for tickets was conducted in a steamer in the middle of the Lake of Geneva, and was so arranged that every horse in the race was "drawn" by Bottomley himself; the reputed winner was a "blind lady of Toulouse," who, in fact, received only £250 for lending her name to the swindle; and all the money, except about a thousand pounds, went into his pockets. It should be added that a Swiss firm which was associated with him on the

*For example, Bottomley found himself bitterly attacked in a pamphlet entitled *Horatio Bottomley Exposed*, which was written by a man he had attacked and was published by the National Labour Press. He dared not proceed against the actual writer and publisher, but persuaded a poor old man named Greeney to reprint a few copies of the pamphlet with his own name on it as publisher. Then Bottomley served a writ for libel on Greeney, instructing him to put up a transparently vulnerable defence. The case was heard by Mr. Justice Darling, who summed up in Bottomley's favour, and the latter was awarded five hundred pounds damages. In reality he paid the costs of both sides and gave Greeney a hundred pounds for his share in the conspiracy.

technical side of the sweepstake, was an honestly conducted organization which was neither aware of, nor participated in, Bottomley's bogus arrangements. We shall meet Bottomley again in the course of this book, when Travers Humphreys at last brought about his downfall.

CHAPTER FIVE

WITH the outbreak of the War in August 1914 unusual types of offences came before the Courts, ranging from alleged treasonable activities down to infringements, of more or less seriousness, of the innumerable provisions of the Defence of the Realm Act and the laws against trading with the enemy and profiteering. As a Treasury Counsel, Travers Humphreys was briefed in large numbers of these cases and he, whose practice had for so long been almost entirely in London, found himself often travelling about the country to prosecute. His ordinary practice was, of course, constantly increasing and he was frequently consulted and briefed for private clients in matters arising out of the War. One class of work, however, he always refused: this was to represent men desiring exemption from military service. He was not concerned with the justice or otherwise of their pleas; he simply refused them his powers of advocacy.

There was, as everybody then alive remembers, a fantastic amount of suspicion about spies and "hidden hands" and other real or supposed manifestations of German agents at the beginning of the War and even to its end. The authorities found their already enormous tasks greatly complicated by hysterical and, often, deliberately untrue denunciations. At the outbreak of hostilities the police took into custody a number of alleged German agents whom they had long known or suspected as such; most of these cases were clear-cut and the guilt of the prisoners was evident, but Travers Humphreys was concerned with one which presented exceptional circumstances and in which the accused man was at last cleared. He was Nicolaus Emil Herman Adolph Ahlers, a naturalized British subject of German birth who had held the post of German Consul in Sunderland, on the north-east coast.

Three days after the declaration of War by England against Germany, he was arrested apparently on instructions from the local military authorities and brought before the Sunderland

magistrates on a charge under the Official Secrets Act. He was remanded to Durham jail, bail being refused, and before long six other members of his family and household were also arrested and put in prison. His trial began in Durham before Mr. Justice Shearman on 8th December, when he was charged under a statute of Edward III, which makes it an offence of high treason for a British subject, "not having the fear of God before his eyes but being moved and seduced by the instigation of the Devil," to "be adherent to the King's enemies in his realm, giving to them aid and comfort in his realm and elsewhere." Ahlers was charged with having "incited and assisted" a number of German reservists to rejoin the German forces, the date of this action being 5th August, the day after war was declared. He did not deny having told the reservists to go back to Germany and join up and in a few cases he had even paid their fares back to their native country. But he did deny knowing at the time that war had broken out between England and Germany. Such knowledge, however, was vital to the charge, since it constituted a necessary ingredient of the offence.

Ahlers explained under cross-examination that he received a telegram on 4th August from the German Consul-General in London which said that "All able-bodied men from the age of seventeen to forty-five must try to find their way to Germany." On receipt of the telegram he sent out a circular letter from his consulate to all German reservists in the district, repeating the Consul-General's instructions to them, and also interviewed various men, telling them how to cross the North Sea. In certain instances he even paid their fares, as he had been instructed to do by the Consul-General. About eight men left in this way on 5th August. At that time, Ahlers said, he did not know that the War had begun, nor did he then think that it was likely; and he did not for a moment suspect that the Consul-General would send him instructions to do anything illegal. On the following day, however, 6th August, he realized the situation and at once ceased his activities.

The prosecution admitted that few, if any, newspapers had reached Sunderland on the morning of 5th August with the news of the midnight declaration of war, but it sought to show that since

the official *London Gazette* for 5th August announced the declaration of war, Ahlers should have known of it. His counsel naturally ridiculed the idea that the majority of people were likely to read the *London Gazette*. The jury, however, after half an hour's retirement, found him guilty, and Ahlers appeared too dazed by his predicament to say anything. Mr. Justice Shearman, who evidently disagreed with the verdict, passed sentence of death, saying that he was obliged to do this because the law of England knows no other penalty for high treason, but he promised Ahlers and his counsel to facilitate an appeal to a higher Court in every possible way. This appeal was heard in London in the middle of December by four Judges under the presidency of the Lord Chief Justice.

Ahlers's appeal was based on his reiterated assertion that he was unaware on 5th August that war had broken out between England and Germany and that, as war had already begun between Germany and Russia and France, he was justified in assuming that his orders from London referred to the Continental outbreak and, therefore, in assisting Germans liable to military service to return to their country. Moreover—and this was the main point urged on his behalf—the Home Secretary had issued an order permitting alien enemies to leave up to 11th August. Mr. Tindal Atkinson, K.C., led for the appellant and Ahlers's conviction was quashed, the Court holding that Mr. Justice Shearman had not properly put to the jury that they must consider not only whether Ahlers had done the acts alleged but also what his purpose and intentions were in doing them. Ahlers was then released.

In the interval between Ahlers's two trials Travers Humphreys prosecuted in another case, in the neighbouring town of Newcastle, which also presented unusual features. There were two defendants, Thomas Seed, a shipbroker, and Frederick Petersen, a German-born naturalized Englishman and the head of a firm of London shipbrokers. They were charged at the Newcastle police court on 14th October, 1914, with attempting to trade with the enemy and with conspiring to defeat the rights of the Crown by means of fictitious documents and false entries in the register of Petersen's company.

Humphreys said that Seed sent an envelope to a certain firm in

Denmark in which he enclosed a second envelope, marked to be forwarded to a certain Karl Wohlenburg in Hamburg. The censor opened both envelopes, and found in the inside one a letter offering to sell coal to the German firm "on the usual terms and at the cheapest possible prices." Seed was then arrested, but said, "I have sold no coal." His defence now was that Wohlenburg was agent for an American shipping firm, the Gans Company, which chartered British and foreign ships to carry cargoes from America to various destinations and which needed coal for the return voyages to America. Seed said he wanted to know when such boats would be coming to England for coal. (The effect of this, of course, would be that the coal would not be sold into German hands for German use, as the charge suggested, but loaded into British or neutral ships journeying back to America.) His counsel added that the letter had been sent openly by Seed, who knew that it would be examined by the Censor.

Humphreys's case in regard to Petersen was that his firm consisted of four directors and shareholders: himself, Seed, and two German brothers named Horn, who lived abroad. When the War began, Seed wrote to Petersen suggesting that the Horn brothers' shares should be transferred to Petersen and himself as it was rumoured that the Government intended to commandeer German property in this country. Petersen agreed, and transferred the shares in the manner suggested, on the understanding that, after the War, the Horns should get them back.

The case went for trial and was heard a few weeks later at the Newcastle Assizes before Mr. Justice Shearman. Both prisoners now pleaded guilty, but were not heavily punished, Seed being fined £100 and Petersen £50. The Judge explained the mildness of the sentences by saying that he was satisfied that Seed had not intended to send money to Germany and had been guided by a mistaken, and perhaps generous, impulse to do something to help the Horns, while Petersen had only fallen in with his partner's views.

There was no War atmosphere about a very curious case in which Humphreys prosecuted at the Surrey Assizes in February 1915. Ellen Woodman, the wife of a Redhill railwayman and a woman of thirty-nine, was charged before Mr. Justice Horridge

with maliciously sending letters to a Redhill magistrate which contained threats to murder him, and also with perjury at the trials of a certain Mrs. Mary Johnson, also of Redhill. The case was heard in a draughty and uncomfortable court-room—a theatre and cinema between assizes—in Guildford, from which town the assizes were soon to be transferred to Kingston-on-Thames.*

The story revealed by Travers Humphreys for the prosecution was a grim account of a miscarriage of justice. In the summer of 1912, he said, Mrs. Johnson was charged before the local Bench with sending indecent letters, written in pencilled capital letters, to her neighbours, Mr. and Mrs. Woodman, in which also she threatened to kill them. She denied the charge, but Mrs. Woodman, giving evidence, produced a similarly written letter which she said she had seen the accused woman throw out of her window. Mrs. Johnson was committed to the Surrey quarter sessions at Kingston and there sentenced in October 1912 to six months' imprisonment. The chairman of the Bench remarked, in passing this sentence, that Mrs. Woodman had been "absolutely terrorized by the cruel conduct of the accused." No sooner, however, had Mrs. Johnson been released from prison than the letters began again. Between 18th March and 21st April no fewer than ninety letters, containing indecencies and threats, were sent to Mrs. Woodman and to the chairman of the local Bench at Redhill. The indefatigable magistrates, affronted by the insults to their chairman, again sent Mrs. Johnson for trial and she appeared before the quarter sessions at Kingston in May 1913. The jury found her "guilty of writing and uttering the letters, but not guilty of intent to kill." The chairman said that this amounted to a verdict of guilty on the charge against her, and sentenced her to twelve months' imprisonment, adding sagaciously that, if he had misinterpreted the verdict, it could be quashed on appeal.

It was so quashed, but in July Mrs. Johnson was brought once more before quarter sessions, with Mrs. Woodman, as usual, providing the main evidence against her. This time the jury did not hesitate to convict Mrs. Johnson, but added a recommendation to mercy and a suggestion that an inquiry should be made into the

* As this book goes to press, Guildford is petitioning for the assizes to be restored to it, and offering to provide more adequate accommodation.

state of her mind. The Court, however, merely repeated the abortive sentence of the previous sessions and sent her to jail for a year.

The moment she had served this term, the letters recommenced. Every week Mrs. Woodman took some of them to the police and begged for protection against her neighbour. The police put Mrs. Johnson on trial, and her husband as well, but the magistrates had at last begun to realize that the evidence was very flimsy and refused to convict her or her husband. Suspicion now fell on Mrs Woodman instead, and a trap was laid for her. Sample packets of stationery were left at her house, after being marked with invisible ink, while the local post office served her with marked stamps. When the next letter reached the chairman of the Bench, it was found to be written on a sheet of the marked stationery and to be stamped with one of the marked stamps. Mrs. Woodman was then arrested, and other evidence of her guilt came to light.

Her husband, giving evidence at the trial, said that Mrs. Woodman could not possibly have delivered some of the letters at their house, since these arrived there without passing through the post and when she was out. But she told a different story. She assured the Court that she had been forced to send the letters by a neighbour, who, she said, followed her into the house in her husband's absence, drew a knife, and threatened to kill her if she did not send them for him. She explained away the difficulty of the paper and the stamps by saying that she had given this man the samples of stationery left at her house, and that he had written all the letters, both to the magistrate and to her, and compelled her to stamp and post them. She had not dared to inform the police or to withdraw her false evidence against Mrs. Johnson, she said, because she was terrified that the man would carry out his threat to kill her if she told the truth.

The husband then admitted that she was hysterical and had taken to swallowing needles soon after their marriage. Dr. Forward who had examined her in Holloway Prison before the trial, said that, without being insane, Mrs. Woodman was of "slow mentality," and, in answer to the Judge, he explained that, in his opinion, "Mrs. Woodman does not know the difference between right and wrong. She knew that she was doing wrong, but not

how wrong." The Judge sentenced her to eighteen months' imprisonment with hard labour, while the unhappy Mrs. Johnson, who had served two sentences for crimes of which she was wholly innocent, was given a free pardon and a grant from the Treasury of £500 to compensate her, so far as was possible, for her unmerited sufferings and for the destitution to which the unjust sentences had reduced her, her husband and her children.

"This case is without parallel in the history of English crime, and very extraordinary from any point of view," said Marshall Hall, opening his speech for the defence in the next trial with which I propose to deal. "At a moment like the present, when the flower of our youth are laying down their lives for their country, does it not strike you as a great tribute to the national character for level-headedness that we have been assembled here day after day, with all the panoply and pomp of law, to inquire into the facts of this sordid case and to decide whether or not one man should go to an ignominious death or not? It is a great tribute to our national system of jurisprudence." The man for whom he was appearing was George Joseph Smith, charged with the murder of Bessie Constance Annie Mundy.

Smith was a thick-set man of forty-three, with a heavy, dark moustache. The most remarkable thing about him was his eyes, which, though small and rather too close together, were peculiarly bright and piercing. *After* his arrest observers claimed to notice that Smith's eyes sometimes hardened into an intensely cruel gaze which sent shivers down one's back; though this remarkable fact had, unfortunately, never been recognized before. (It is perhaps curious how often criminals are found to look sinister when everybody knows that they are criminals: actually, most of them are people of ordinary appearance.) Smith was muscular and professed to have been a gymnastic instructor in the Army, though this was probably untrue. He had an extraordinary fascination for middle-aged women of various types: yet he was devoid of education, manners, or decency.

What is known for certain about him is that, born in London in 1872, he was sent to a reformatory at the age of nine for stealing, went to jail for six months for the same offence before he was twenty, and again for twelve months a few years later. He then

introduced variety into his methods by going through the marriage ceremony with no fewer than eight women in various parts of the country and under various names between 1898 and 1914: in every case except one his motives and methods were wholly mercenary; he robbed some other women also and made them rob for him, without going so far as even to pretend to marry them. He served another jail sentence for theft in the same period, being sentenced to two years' imprisonment at Hastings in 1901, but otherwise he seems to have kept clear of the police until his last trial in June 1922. This was in connection with the death of the fifth in the known series of his bigamous wives. It was claimed that he murdered at least two of the others also; so that Smith may be regarded as by far the most appalling criminal who has been tried in England in this century. The wholesale murderer has become much rarer here than in other countries—Smith was a mere beginner by comparison with Landru and Bela Kiss—but Smith showed that the type is not yet extinct. Incidentally it is suspected that he committed several other murders besides those mentioned at his trial.

The case for the prosecution was remarkable, among other things, for the fact that evidence was produced about the two other murders of which Smith was suspected, not in order to convict him of them but to show that he had for years practised a "system" of murder: this evidence was intended, therefore, to strengthen the circumstantial evidence relating to the murder of Miss Mundy, of which alone he was charged. Thus, in effect, the prosecution presented evidence about three separate murders and asked the jury to find that Smith was clearly guilty beyond reasonable doubt of one of them. Travers Humphreys was led at the trial by Archibald Bodkin and had with him Cecil Whiteley. Smith was defended by Marshall Hall, K.C., Montague Shearman and Grattan Bushe. The Judge was Mr. Justice Scrutton.

The ascertained facts about Smith's career were set out when the case was opened, except, of course, his criminal record, of which a jury is always kept ignorant—though in this case a garrulous witness disclosed, to the horror of Judge and counsel, that Smith had been in prison. The prosecution showed that he wandered up and down the country inveigling young women, and others not

so young, into marriage; then he would persuade them to hand over their savings to him and would disappear. In some cases where the women had given him their money before the date fixed for the wedding, he spared them that humiliation. His usual method was to take them to a picture-gallery or a park, make an excuse for leaving them a moment, hurry back to their lodgings and pack his and their belongings and vanish. Yet for most of the time he remained faithful to one of his "wives," the third in order: from time to time he would return to her, explaining his absence as due to his occupation as an antique-dealer travelling the countryside in search of suitable purchases, or saying that he had been obliged to go abroad for a similar purpose. Such was his attraction for women that neither this woman nor most of the others seem to have suspected that his only real occupation was fraud, bigamy and murder. Among his aliases were Love, Lloyd, Wilson and Williams and it was in the last name that he met Miss Mundy, with whose murder he was now charged.

She was thirty-one when he met her, the daughter of a Wiltshire bank manager, under whose will she had inherited £2,500. As she was not very shrewd—indeed, there was a suggestion that she was slightly weak-minded—her father's executors thought fit to persuade her to transfer this property to them as trustees, so that they might keep it intact and send her most of the interest on it, a matter of about £8 a month. On this allowance she lived in various boarding-houses in the south of England, a simple, stupid woman of no conceivable interest to anybody except such a brute as Smith. He met her near Bristol in August 1910, and so flattered was she by the attentions of "Henry Williams," and so attracted by his peculiar charms, that she married him by special licence after only a few days' acquaintance. Before the marriage, however, he took her to see a solicitor, whom he asked, with her silent consent, to secure a copy of her father's will and of her assignment of her property to the trustees. When the latter arrived, Smith asked if it would be possible for them to raise a loan on the deed of settlement, but the solicitor advised them to get in direct touch with the trustees.

Immediately after the marriage—which was celebrated without informing her relations, who might have persuaded her to inquire

about the bridegroom's antecedents—Smith wrote to the trustees from Weymouth, where the honeymoon was being spent at the wife's expense, and asked them to send along such money as had accumulated from the difference between the interest on the property and the monthly allowance they had sent to her. When they hesitated, he went to a Weymouth solicitor who obtained £135 from the trustees. Smith refused to take the solicitor's cheque for the amount, insisting on being paid in cash. Receiving it, he took his wife for a walk, gave her the slip, and, arriving alone at their lodgings, told the landlady that he had to go to London on urgent business. He went and, almost at once, sent a letter to his wife in which he vilely insulted the wretched woman in a manner that need not be described here, and advised her to tell her relations that he had been called away to France for some time on business and that her money had been stolen from her by a stranger on the beach. He warned her to learn this story by heart and to destroy his letter; otherwise, he said, he would be compelled to expose her true character to the world.

The heartbroken woman showed the letter to her landlady, and, disobeying Smith's instructions, kept it. For a year and a half she returned to her old way of living, until by chance she happened to run up against Smith again at Weston-super-Mare. The old attraction overcame her sense of grievance and they were instantly reconciled.

They went off to Herne Bay, in Kent. Smith wrote hypocritical letters to her trustees, protesting repentance for his previous conduct, while, in a more businesslike mood, he took her to a solicitor and consulted him about the best means of expressing their love in a mutually advantageous form. Since it was impossible to revoke her settlement without the agreement of the trustees, of whose consent Smith was rightly dubious, the solicitor suggested that the only thing to do was for the husband and wife to make wills in each other's favour: when Smith enquired if it was possible for them to enter also into a covenant not to revoke these wills, the solicitor, after taking counsel's advice, was obliged to tell him that such a covenant would not be effective, because, for one thing, the trustees might at any moment decide to reinvest the woman's property in an annuity for her, which would end with her death,

so that she would have nothing to leave to her husband in her will. Smith decided that, in spite of everything, they would make the wills each leaving everything to the other. The wills were drawn up, signed and witnessed, and simultaneously it occurred to Smith that, although they had occupied a house in Herne Bay for some weeks without a bath, this luxury was now a necessity. The very day after the wills were signed the bath was installed.

Two days later Smith took his wife to a doctor, to whom, speaking on her behalf, he described symptoms which were, as the doctor at once realized, suggestive of her having suffered an epileptic fit. She was not noticeably ill at the time, but, as she appeared to confirm her husband's story, the doctor had no hesitation in believing it. He gave her some soothing medicine, and they went away. Two days later again, the doctor received a note from Smith, which read, "Come at once, I am afraid my wife is dead." The doctor hurried round to the house and found the woman lying dead in the bath, with her head under water and her feet outstretched at the other end. Smith explained that, while he was out buying fish, his wife had evidently decided to take a bath, and that he had found her dead on his return. There was no sign of violence and, recalling the visit of the other day, the doctor assumed that she had had another epileptic fit and been drowned.

The inquest was held at once and the doctor's opinion was accepted by the jury, despite a letter from the woman's brother asking the coroner to conduct a strict inquiry. Smith immediately went back to his favourite "wife," and in due course obtained Miss Mundy's property under the terms of her will. It need hardly be pointed out that her death, coming so quickly—four days—after the will had been drawn up in his favour, had precluded the possibility of her trustees investing the money in an annuity for her and so preventing its transference to her widower, "Henry Williams."

Now, if this had been all the evidence to be presented against Smith for the murder of Miss Mundy, no jury would have been likely to convict, or, if it did—and juries sometimes do very strange things—the conviction would certainly have been quashed on appeal as being based on insufficient evidence. After all, people do have fits and faint in hot baths, and "Mrs. Williams," rightly or wrongly,

was being treated at the time of her death as an epileptic by a fully qualified doctor. It might be a regrettable coincidence that she had a fit in the bath, bought only two days before, just after she had made a will in her husband's favour; but such coincidences are not incompatible with perfect innocence on the husband's part. But suppose it could be shown that at least two others of his wives had died in the same way, being found dead in their baths just after they had consulted doctors for fainting-fits and headaches, and just after they had arranged for Smith to benefit financially by their death? Would not this help to show that Bessie Mundy's death at Herne Bay was not a mere coincidence but a cruelly, cunningly planned murder? The Crown, therefore, went on at the trial to prove the circumstances in which Alice Burnham and Margaret Lofty died. Each supposed herself married to Smith, who passed in the one case by his real name and, in the other, by the name of Lloyd.

Alice Burnham, the daughter of a Buckinghamshire farmer, was about twenty-four when she had the misfortune to meet Smith and marry him. She was earning her living as nurse to an old gentleman at Southsea, and Smith, who habitually visited such watering-places in search of prey, met her there in the autumn of 1913, a little over a year after the death of Miss Mundy. They became engaged at once, and went to visit Miss Burnham's parents, who took such an instinctive dislike to him that they were not invited to the wedding in November. Immediately afterwards, however, Smith began to pester them for money which he claimed to belong to his wife. They at first refused to send it, and her father wrote to Smith, who had described himself as a "gentleman of independent means," for information about his parentage and position. To this Smith sent a characteristic reply:

Sir,

In answer to your application regarding my parentage, etc. My mother was a bus-horse, my father a cab-driver, my sister a rough-rider over the Arctic regions, and my brothers were all gallant sailors on a steam-roller. This is the only information I can give to those who are not entitled to ask such questions, contained in the letter I received on the 24th inst.

Your despised son-in-law, G. Smith.

He followed up this flight of humour with a solicitor's letter demanding his wife's money, and duly received £104. A few days later Mrs. Smith, as Alice Burnham supposed herself to be, made a will in Smith's favour, by which he would receive in the event of her death £650, for which sum she had insured her life. Instantly he carried her off to Blackpool, where they took furnished rooms, Smith rejecting the first address they visited because it had no bathroom. The same night they went to a doctor, because Mrs. Smith was suffering from headaches. Since she was more or less experienced in medical matters, it is probable that Smith tampered with her in some way to produce this convenient headache and to persuade her that it was serious enough to take to a doctor.

The doctor, after the manner of sensible doctors, gave her some tablets and a stomach medicine, took his fee and sent his visitors away. An evening or two afterwards, Mrs. Smith asked the landlady's daughter to prepare her a bath. She was seen to enter the bathroom, and the next thing that happened was that water began to come through the ceiling of the kitchen immediately below the bathroom. The landlady was naturally displeased at this, but her daughter persuaded her not to go upstairs, for fear of offending their lodgers, who had doubtless poured a little too much water into the bath. It is not easy to let rooms in Blackpool in December.

Then Smith came downstairs with some eggs which he said he had brought for his wife's breakfast next morning. He stayed in the kitchen a little time, discussing a new fire-engine which was interesting Blackpool at the moment, and went upstairs again. There he was heard to call out to "Alice," and, as this was the name of the landlady's daughter as well as of his wife, the girl ran out to see if she was wanted. Smith explained that he was calling to his wife, but a minute or two afterwards he summoned the girl and told her, from the open door of the bathroom, that he could not make his wife answer him. He sent for the doctor, who arrived to find Mrs. Smith lying unconscious and apparently drowned in the bath. It struck the doctor as strange that Smith had not let the water run away, but this was soon forgotten in the vain attempt to restore Mrs. Smith to life by artificial respiration. The doctor's evidence at the inquest, when he mentioned the

woman's previous visit to him, was decisive. A verdict of accidental death was returned, and Smith duly collected the money from the insurance company. Oddly enough, a couple of months previously, he had told another insurance company, with whom he was negotiating an annuity for himself, that he expected to come into a sum of four or five hundred pounds after his birthday in January. His birthday was on 11th January: he received the insurance money under Alice Burnham's will on 18th January!

It is hardly surprising that he did not mention these incidents to his favourite wife when he rejoined her after the inquest: he merely said that he had been in Spain and made a profitable deal in old jewellery. After a few months' rest he left her again, explaining, as was his custom, that he was "going to have a run round with a young fellow" in search of antiques.

The next "young fellow" to fall into his clutches was a servant-girl whom he married and instantly deserted, taking with him all her possessions. Then, at Bath, he met Margaret Lofty, the thirty-eight-year-old daughter of a clergyman who had died some time previously. They were married in the name of Lloyd in the middle of December 1914, came to London and took rooms in a house in Highgate, first ascertaining that it had a bath. A fortnight before the marriage the woman insured her life for £700, being then in perfect health. Immediately after their arrival in London, the usual procedure was adopted. Smith took her to a doctor, complaining that she had a headache: the doctor took her temperature and, finding it a little above normal, diagnosed the possible onset of influenza and gave her a mild sedative. Next day she made her will, leaving everything to her husband. The very same evening she asked the landlady for a bath.

"Mrs. Lloyd" entered the bathroom. A minute or two later the landlady downstairs heard a sound of splashing, followed by a noise as if somebody was putting wet hands on the side of the bath, and finally a loud sigh. Then she heard Smith loudly playing the harmonium in the sitting-room for about ten minutes, after which he went out into the street and returned with a bag of tomatoes which he gave the landlady for his wife's breakfast in the morning. He went upstairs again, and instantly summoned the landlady: he had found his wife lying dead in the bath. The

doctor was called and, as usual, decided that the poor woman had fainted in the hot bath and been drowned, and he assured Smith, who asked anxiously if she could have committed suicide, that this was not possible. The inquest ended with the customary verdict of death by misadventure, and Smith approached the insurance company for the money due to him under his wife's will. He never received it, because by this time the police were looking for him.

The father of Alice Burnham, the Buckinghamshire girl who died in her bath in Blackpool read a report of the death of "Mrs. Lloyd" in a Sunday newspaper, which described the "particularly sad circumstances under which the bride of a day met her death." He cut out the report and sent it to the Aylesbury police, together with a cutting from another paper, a year earlier, describing his daughter's death. The police, impressed by the similarity between the two cases, began to make inquiries and, before long, traced Smith's financial career, its curious connection with the women's deaths, and various other matters which came to light in the process. They remained for some time ignorant of his part in the life and death of "Mrs. Williams" at Herne Bay, but this too was discovered after his arrest. At first he denied his identity, or identities, but at last confessed to being the widower and beneficiary of "Mrs. Williams," "Mrs. Smith" and "Mrs. Lloyd," adding, "I have nothing to fear. My conscience is clear." The prosecution concentrated on the Herne Bay episode as their central theme, adducing the other two deaths as proof of "system."

The evidence for the prosecution was skilfully marshalled by Bodkin and Humphreys. Though over a hundred witnesses were called from forty towns to put together the story of Smith's career in the past years, their accounts fitted into one another so neatly that the jury could have no doubt of the weight of the evidence. Even the three baths were taken from the houses and brought into court. Throughout the trial the prisoner alternated between sullenness and outbursts of temper. He interrupted witnesses, accusing them of being lunatics and liars, and told the Judge that as he seemed to have made up his mind to hang him, he had better get on with the job quickly. There is no need to record details of the evidence; all of it was pitiable and much of it disgusting.

But here is the summary of it, with which the opening speech for the Crown ended:

"In each case you get the simulated marriage. In each case all the ready money the woman had is realized. In each case the woman made a will in the prisoner's favour. In each case the property could only be obtained through the woman's death. In each case there were unnecessary visits to a doctor. In each case letters were written the night before the death, in which the prisoner's kindness as a husband was extolled. In each case there were inquiries about a bathroom. In each case the prisoner was the first to discover the death. In each case the prisoner was the person in immediate association with the woman before her death. In each case the bathroom doors were either unfastenable or unfastened. In each case the prisoner pretended to do something which would take him away from the scene where the tragedy had been enacted. In each case there was the immediate disappearance of the prisoner" after the inquest.

The only thing that the prosecution could not satisfactorily establish was how Smith managed the actual drowning. The suggestion offered was that he leaned over the bath, put his arm under the victim's knees and swiftly plunged her head under water, the rush of water up the nose causing immediate unconsciousness without bruising. An experiment made by detectives with an accommodating lady swimmer showed how easily this could be done: indeed, the experiment was almost too successful! At the same time, it appeared from the landlady's story of the noises she heard when the third woman died that this one at least struggled for a few moments before she was suffocated: incidentally, some tufts of hair were found at each end of the bath on that occasion, as if a struggle had taken place, though there were no signs of violence on the body. It has since been suggested that Smith drugged his victims before they took their bath, or infused a poisonous vapour into the bath-water, or even adopted some unpleasant physiological method of momentarily paralysing them; but the probability remains that he took the simplest course and drowned them by suddenly pulling them under water.

He did not go into the witness-box, nor were witnesses called on his behalf, but Marshall Hall argued that the prosecution had

failed to show satisfactorily how Miss Mundy had died or that the prisoner was responsible for her death. As for the other two women, Marshall Hall complained of evidence about their deaths being admitted, and claimed that it was impossible to believe that any sane man would systematically murder women in such a way. And Smith, he said, was undoubtedly sane. It was a hopeless task, and Mr. Justice Scrutton summed up with deadly force against Smith. In the course of his summing-up the Judge offered the jury a fresh, and very plausible, suggestion how the murders were done:

"Include in your consideration," he said, "this possibility, at any rate in regard to the last two cases, and possibly in the first. Wife says to husband, 'I'm going to have a bath.' Husband says to wife, 'All right; I'll go and turn on the water for you.' Husband goes to bathroom, turns on the water and waits. Wife comes in in her dressing-gown or night-gown—night-gown in the second case, dressing-gown in the third. The newly married husband stays in the room and strips her, or she strips herself. He says, 'I'll put you in the bath, my dear,' picks her up—a woman of only eight stone or nine stone—lowers her into the bath but holds the knees up. There is no evidence of it, but consider it among the possibilities."

The jury retired and, after taking the opportunity to examine the baths and place one of their number in them as a specimen victim—but without water!—returned very soon with a verdict of guilty. The Judge sentenced Smith to death, adding, however, that he saw no reason to add the usual warning to the public against repeating such crimes or the usual exhortation to the prisoner to repent: he did not believe, Mr. Justice Scrutton said, that there was any other man in England who would be likely to commit such ghastly crimes, while an exhortation to repentance would be wasted on Smith. Nevertheless he expressed the customary hope that the Lord would have mercy on the prisoner's soul.

Smith appealed, Marshall Hall urging among other things that the Judge had wrongly offered the jury a personal theory about the method of the crime. The Court of Criminal Appeal, consisting of the Lord Chief Justice, Mr. Justice Darling and Mr. Justice

Lush, dismissed the appeal, agreeing, however, that it would have been better if the Judge had not put forward his own theory. Smith was hanged on 13th August, 1915.

Soon after this garish and sensational case Travers Humphreys was concerned, for the defence, in one of the banking trials which established him as an outstanding advocate in a peculiarly complicated and technical sphere. He was briefed to defend Frederick Thomas Bulteel, who was put on trial at the Old Bailey with his partner, Mackworth Praed Parker, on charges arising out of the failure of the Naval Bank in Plymouth. The case was heard before Mr. Justice Avory for ten days in March 1916.

The bank was founded as far back as 1774 and had flourished over a very long period. Bulteel's father was its senior partner for many years prior to his death in 1908, just after Bulteel himself became a partner. The other prisoner, Parker, entered the bank as a clerk in 1888 and was made a partner at the end of the century. It appeared that the concern was insolvent even then, its deficiency amounting to some £46,000; this grew annually until, by the time the younger Bulteel arrived, the adverse total was about £111,000. When the old man died, the two others carried on the business as sole partners and proprietors and endeavoured, according to the prosecution, to retrieve its position by Stock Exchange speculation. The crash came at the outbreak of the War, when the bank failed with a deficit of something like £300,000 and with gross liabilities of £500,000.

The Crown claimed that, because Bulteel and Parker had acted in this way instead of closing down the bank when they realized that its position was impossible, they were guilty of conspiring to defraud its customers. Accountants' evidence showed that, up to the younger Bulteel's joining it, the bank's investments had been sound enough, but afterwards very inferior investments appeared in its books. It may be added that the books were kept correctly during the whole period, and the defendants gave the authorities every assistance, once investigations began. Other witnesses were called to support the prosecution's suggestion that the chief reason why the two men had continued to carry on the insolvent business was in order to live in a luxurious style.

Travers Humphreys, defending Bulteel, argued that both

defendants had acted throughout in good faith and with a desire to serve the interests of their creditors. They had taken the advice of a great banker, the late Lord Avebury, and followed it to the best of their ability, even though the results proved unfortunate. Further, Humphreys extracted from Bulteel in examination that his father had told him that the Bank had been much worse off in the past and yet recovered: it seems that a deficit of £100,000 in 1871 was reduced to one of £66,000 ten years later. The partners, Travers Humphreys said, might well suppose that things would improve when, with the older Bulteel's death, his considerable drawings from its funds ceased: in addition it had a large and valuable connection, transacted a great deal of business, and might with better fortune have wiped out its deficit instead of increasing it. The accusations of high living against the prisoners were denied by their counsel.

Mr. Justice Avory, summing up, pointed out that insolvency is not in itself a crime; nor is reckless trading. The jury, before they convicted the defendants, must satisfy themselves that Bulteel and Parker had defrauded their customers by *falsely representing* that the bank was solvent and was conducting normal business. The mere fact that a shopkeeper, for example, opened premises and carried on business, did not necessarily mean that he was representing himself as solvent; but, said the Judge, it might be that a banker was in a different position. Did the opening, and keeping open, of a bank imply that it was solvent? This was a point for the jury to decide in considering their verdict.

The legal position of banks was far from satisfactory, he went on. Any man, or any men under the number of ten, could by law start a bank without any capital and without any obligation to return or publish balance sheets: all they had to do was to make an annual return of the number of notes in circulation. This, the Judge declared, was a grave defect in our laws. After a long retirement the jury found both defendants guilty but recommended them to leniency, and they were given no more than six months' imprisonment in the second division.

And now we come to one of the gravest cases with which Travers Humphreys has been associated in his long career: the trial of Roger Casement for high treason. It should be noted that

Humphreys had by now become one of the Senior Counsel to the Treasury.

On Easter Monday, 24th April, 1916, rioting broke out in Dublin and was quickly suppressed. The leaders were so unpopular that they were mobbed by the parents of some of the boys whom they had led; but the military authorities, with characteristic stupidity, executed half a dozen of them and thus not only added new names to the long list of Irish martyrs in the old struggle against the British rule, but threw a false glamour over the follies of Easter Monday and once and for all destroyed whatever new sympathy had grown up between the two islands in the stress of the War. Two months later Sir Roger Casement was tried in London on a charge of high treason, and the world learned something of the unsuspected background of the Easter rising.

Casement, it is true, had been arrested on Good Friday, before the trouble began, but it is clear that he had timed his arrival in Ireland to participate in the rising. He was landed that day on the coast of Kerry, in the south-west of Ireland, apparently from a German submarine, while another German vessel, the *Aud*, sailing under the Norwegian flag, carried there a cargo of rifles and ammunition chiefly of Russian manufacture. The *Aud*, incidentally, was captured by a British vessel next day and scuttled by its crew within sight of the harbour to which it was being taken. By that time Casement was already under arrest; he was found sheltering in a "fort"—half earthwork, half cave—close to his landing-place and, being unable to explain his business, was at once associated with a small boat discovered on the beach and a box of ammunition buried near it. He stated that he was an author, Richard Morton, of Denham in Buckinghamshire—which village was indeed his home, though he was an Ulsterman by birth—but he had no documents to prove his identity. Moreover, he was seen on the way to the police station to drop a paper which turned out to be a code consisting of groups of figures and, against them, such significant items as "Have decided to stay," "Further rifles are needed," "How many rifles will you send us?" and "Guns and ammunition are needed." Curiously enough, the figure 7 in the numerals of the code had a dash through it, in the German style. Further search on the shore revealed some Mauser

pistols, foreign maps of Ireland and three coats, in the pocket of one being a railway ticket from Berlin to the German port of Wilhelmshaven dated 12th April, only nine days before. On reaching England, Casement admitted his identity.

He had had a curious career. Born in Dublin fifty-one years previously, he became a British consul in Central Africa and in South America, where he was responsible for revealing some of the horrors of the Putumayo rubber industry. In 1911 he received a knighthood, the news of which he acknowledged in the following letter to Sir Edward Grey at the Foreign Office:

The Savoy, Denham, Bucks.
19th June, 1911.

Dear Sir Edward Grey,

I find it very hard to choose the words in which to make acknowledgment of the honour done me by the King.

I am much moved by the proof of confidence and appreciation of my services on the Putumayo conveyed to me by your letter, wherein you tell me that the King has been graciously pleased upon your recommendation to confer upon me the honour of a knighthood.

I am indeed grateful to you for this signal assurance of your personal esteem and support, and very deeply sensible of the honour done me by His Majesty.

I would beg that my humble duty might be presented to His Majesty, when you may do me the honour to convey to him my deep appreciation of the honour he has been so graciously pleased to confer upon me.

I am, dear Sir Edward, yours sincerely,
Roger Casement.

It has lately been divulged that, at the same period, he was expressing anti-British sentiments to Irish friends and deprecating the knighthood conferred on him. This seems to exemplify a curious duality in his intellectual make-up.

Two years later, in 1913, he retired on a pension for which he made the usual quarterly application up to October 1914, two months after the outbreak of the War. The next news of him came from exchanged prisoners of war in February 1916, who reported that he was visiting prison camps in Germany where

British prisoners of Irish birth were segregated and urging them to join an Irish Brigade under his leadership to fight against the country of their, and his, allegiance. In this he had little success, being on one occasion attacked by the men he was addressing; but about fifty of them joined the Irish Brigade and were given a green uniform with shamrocks and a harp worked on it and, more to their taste perhaps, a higher scale of rations than their late companions in misery. And then came Casement's return to Ireland in the submarine, on the eve of the Easter rising.

His trial began on 26th June, 1916. It was a "trial at Bar," a rare occurrence, and therefore there were three Judges. The Attorney-General, Sir Frederick Smith (afterwards Lord Birkenhead) led the prosecution, supported by Archibald Bodkin, Travers Humphreys and G. A. H. (now Mr. Justice) Branson. The prisoner exercised his right under the Treason Act of 1695 to have two counsel assigned to him, and there appeared for his defence Alexander Sullivan, a witty Irish barrister who held the old-time rank of Second Serjeant of the Irish Bar and is now also a King's Counsel. Mr. (now Judge Sir) Artemus Jones was briefed as the Serjeant's junior; in addition Professor J. H. Morgan, an authority on constitutional law and to-day a K.C., was allowed to represent Casement in the capacity of *amicus curiæ*—"a friend of the Court" —while an American barrister, Michael Doyle, was also associated with the defence. The case was considered of so much importance, in view of the state of Irish opinion (both in Ireland and America) which had been exasperated by the executions of the Easter leaders, that the Crown was most anxious to avoid the danger of any indiscreet or ambiguous remarks in presenting the case. Contrary, therefore, to his usual custom, "F. E." Smith read his opening speech, which had been carefully prepared beforehand on a note of the facts drawn up by Travers Humphreys. What is more unusual, it was telegraphed verbatim to America the day before the trial began.

Before the Court had an opportunity to hear it, Serjeant Sullivan submitted that the indictment against Casement should be quashed, on the ground that it disclosed no offence known to the law: he argued that the terms of the statute defining treason—which have already been quoted in this chapter in the account of the Ahlers

trial—refer only to adherence to the King's enemies "within his realm" and do not apply to such action *outside* the country. The three Judges, Lord Reading (the Lord Chief Justice), and Mr. Justice Avory, and Mr. Justice Horridge, decided to examine this submission after they had heard the case for the prosecution, which the Attorney-General now proceeded to read.

He set out the facts already mentioned, commenting on the emphatic loyalty expressed in Casement's letter about his knighthood, and accusing him of seeking "to seduce and to corrupt" the unfortunate Irish prisoners of war in the Limburg camp, several of whom would be called as witnesses. Carefully worded though the speech was, one notes a typical example of "F. E.'s" caustic style in the last words of the sentence, "One private actually struck the prisoner, who was saved from further violence by the intervention of an escort of Prussian Guards, who had been assigned to him for his protection by a nation which thinks of everything." One might think, by the way, that this tribute to the Germans was unjustified, since they had very indiscreetly sent home certain wounded soldiers who were to be the chief witnesses against Casement; but possibly the Germans supposed that all Irishmen were inveterate haters of Britain and would never dream of disclosing Casement's advances to them in the prison camp. More probably, they were weary of Casement and deliberately endangered him by sending him to Ireland and releasing the witnesses.

Several of these men now gave evidence, bearing out the charges against him. They all declared that he invited them to "better yourselves by joining the Irish Brigade which I am going to form." Its members would become "guests of the German Government" and, if and as soon as Germany won a sea-battle, they were to be landed in their native country to fight the British. "Now is your chance to fight for Ireland and free it," was another appeal attributed to him, as well as the surprising suggestion that the Germans and the Irish people are very much alike. If Germany failed to obtain command of the sea, the Irishmen were to be sent with a bounty to America at the end of the War. One of the witnesses claimed that Casement spoke of sending his Irish Brigade to fight on other fronts as well as in Ireland, but this was not

supported by the others, nor was it ever satisfactorily established that Irish prisoners who refused to join the Brigade were starved in consequence.

Then farmers and peasants and policemen from Ireland, several of whom had never been in a city before, let alone London, gave evidence about Casement's landing and arrest, while a sailor described the fate of the *Aud*. This ended the case for the prosecution.

Serjeant Sullivan then presented his argument on the legal point. He and, after him, Mr. Morgan, quoted and discussed authorities through the ages, with particular emphasis on the position of a comma in one old phrase; but the Judges held that, by precedent as by common sense, a man is as guilty of high treason who adheres outside the realm to his King's enemies as a traitor inside it. There is no need here to set out the subtle and ingenious reasonings by which the plea was alternately urged and dismissed. After this interlude the defence was opened.

Casement read a statement in which he sought to refute four accusations which he believed to have been made against him. First, he said, he had not invited any of the Irish prisoners to fight in any other part of Europe than Ireland. Secondly, "I never asked an Irishman to fight for Germany. I have always claimed that he has no right to fight for any land but Ireland." Thirdly, he denounced as an "abominable falsehood" the insinuation that he had the rations reduced of those Irishmen who would not join him. And fourthly, he vigorously denied that he received a farthing as personal reward from the Germans for his activity in the prison camps and elsewhere. He then left to his counsel the task of attempting to prove his innocence of the main charge.

Serjeant Sullivan's point was ingenious. Casement, he said, had never sought to serve German interests or to use his Irish Brigade as part of the enemy forces which were fighting Britain and her allies. His intention had been to form a body of troops which, at the end of the War, could be used in Ireland to oppose the Ulster volunteers who had threatened just before the War to withstand by force of arms the introduction of Home Rule. The Serjeant quoted parts of the soldiers' evidence to support this explanation of Casement's activities, but after he had been speaking

for some hours, he faltered in his words, stopped and buried his face in his hands. "I regret, my Lords," he murmured, "I have completely broken down." Lord Reading instantly adjourned the hearing, and the other counsel in court hurried to the Irishman's assistance.

Next day he was still unable to continue, and Artemus Jones took his place, elaborating the same explanation of their client's activity. There was a certain piquancy in the situation, because, as everybody present knew, the Attorney-General himself, as "F. E." Smith, had been one of the most vigorous partisans of the Ulstermen's pre-War attitude, second only to Sir Edward Carson.

Smith heard the attacks on himself and his friends imperturbably, and exercised the right of the Crown to make the final speech at the trial, though in cases of less importance the fact that the defence had called no witnesses might have led to this right being waived. In a typically trenchant speech, the future Lord Birkenhead countered the case for the defence. Had Casement's acts been done before the War, he said, the explanation now put forward for them would have been, if not a sufficient, at least a very relevant answer to the charge. But Casement was charged with acts done at a moment when, as the defence admitted, a truce had been called in Ireland between the Ulstermen and the Home Rulers and when both parties were united against the German "tiger spring." Why then did Casement choose this time to go to Germany? How did he get there? What understanding had he with the Germans whereby they permitted and encouraged him to form an Irish Brigade? "Gentlemen, if we knew the full story of the circumstances under which this man went to Germany, if we knew what negotiations had taken place and what safeguards were given and what plans were made, perhaps this defence would be even more difficult than it is to-day."

The Attorney-General quoted the witnesses to show that Casement had said that the Brigade would be the guests of Germany, would be landed in Ireland as soon as the Germans won a sea-victory, and, if no such victory was won, would be sent to America with a bounty. How could these plain statements, made by witness after witness, be reconciled with the claim now put forward, "a belated afterthought," by the defence? Was it likely that the

Germans would interest themselves in a post-War campaign dissociated from the struggle in which they were now involved? Moreover, was it reasonable to suppose that they would provide Casement with a code, calling for more guns and other assistance out of sheer benevolent and unselfish interest in Ireland's internal affairs after the War? Taking all the facts together and drawing from them the obvious meanings, the jury must find the prisoner guilty of the charge brought against him.

After Lord Reading's summing-up, the fairness of which was recognized by the defence, the jury retired for less than an hour before returning a verdict of guilty. Casement was asked if he had anything to say before sentence was passed, and he read out another, much longer statement which began by challenging the right of any English Court to judge him and claiming to be judged by a more competent and higher tribunal, his own Irish people. He bitterly attacked the Ulster volunteers, facing towards the Attorney-General as he did so, and he declared that "I am prouder to stand here to-day in the traitor's dock to answer this impeachment than I would be to fill the place of my right honourable accusers." As an Irish patriot, he appealed to all who heard and read his words to regard him as a martyr in the cause of Ireland's freedom.

It was eloquent but not very pertinent to the specific charge brought against him. The Judges would have been within their rights in stopping him for irrelevance; they evidently, however, thought it more advisable to let him speak than to call him to order and allow the impression to go out that they had treated him harshly. In any case, Casement's statement was in vain. Sentence of death was pronounced on him.

Casement appealed against his conviction and, at the hearing, Serjeant Sullivan, now recovered from his indisposition, repeated his legal arguments, but the Court, headed by Lord Darling, denied their validity. Mr. Justice Darling twice exercised his ready wit, which can scarcely have been appreciated by the wretched man whose life was at stake. In the first instance, when Serjeant Sullivan quoted Lord Esher as saying that a certain case would have been quite clear to anybody who had not confused his own mind by reading a large number of other cases, Mr. Justice Darling remarked drily to the Serjeant that "This is a dangerous

doctrine when you have been addressing the Court for two hours." And again, in reading the judgment of the Court, Mr. Justice Darling retorted on the Irish Serjeant's attacks on the sixteenth-century legal commentator, Lord Coke, by quoting Milton's description of Coke as one who

> "On the Royal Bench
> Of British Themis, with no mean applause
> Pronounced and, in his volumes taught our laws,
> Which others at their Bar too often wrench."

Casement was hanged on 3rd August, 1916. Next day the Government issued a statement in which they announced that fresh information had been received since the trial, to the effect that the Irish Brigade might have been employed in Egypt against the British Army; the statement also dismissed as preposterous a rumour that Casement's purpose in landing in Ireland was to try and stop the Easter rising; and, finally, it denied another rumour, that Casement was insane.

If Casement was not legally insane—and the Government would surely have been glad to reprieve him on this ground, if they could—his mind was certainly unbalanced. Perhaps he thought of himself as a successor to Parnell, with whom he had certain qualities in common, though he lacked the intense and incessant Irish loyalty which was the mainspring of the other's political activity. It is true that Parnell did not become an Irish patriot until his first youth was over, but in Casement's case the change from open loyalty to rebellion came when he was in the fifties, at an age when men must be supposed to have taken stock of their aims and their allegiance.

And now we must pause to mention the most tragic moment in Travers Humphreys's life, the death of his elder son. In 1896, soon after he was called to the Bar, Humphreys married Mdlle. Zoë Marguerite Neumans, the daughter of a distinguished Belgian artist resident in Antwerp. Two sons were born to them, both of whom were destined for the Bar. *Dis aliter visum:* on 28th September, 1917, his elder son, Lieutenant Richard Grain

Humphreys, of the 13th King's Royal Rifles, was killed in action in the Ypres salient, at the age of twenty. He had obtained his commission earlier in the War through the Inns of Court Officers Training Corps. His adjutant wrote to him of his parents that "Lieutenant Humphreys was extraordinarily efficient in the discharge of his duties, and his loss will be most keenly felt. He was intensely admired for his magnificent courage and utter disregard for danger. His record for bravery in the battalion was proverbial."

CHAPTER SIX

IN the early morning of Sunday, 10th February, 1918, a gaping crowd of people gathered on Eltham Common, near Woolwich, to stare at the dead body of a young girl of sixteen who was lying fully dressed on the ground a few yards from the main road. None of them seems to have thought of calling the police, until at last a passing tram-driver stopped his tram at a neighbouring police station and gave the information. Then the police hurried to the spot, drove back the empty-headed sightseers and sent for a doctor. There was little doubt whose body it was: on the previous night a worker at Woolwich Arsenal, who lived near the spot where it was found, had reported to the police that his daughter, Nellie Grace True, a girl of sixteen, had vanished. She had gone out after tea to change a book at the Plumstead Library, and her father met her on her way there as he came home from his work. Usually she returned from the Library about nine, though there was always a possibility that she might meet a friend and go to a theatre or a cinema. It was only when at midnight she had not returned that he gave the alarm. He now identified the body as his daughter's.

Meanwhile the police doctor discovered that she had been molested and strangled, and he gave the time of her death as not later than two o'clock that morning. The librarian at Plumstead remembered changing her book between eight and nine the previous evening, so that the murder must have taken place at some time between then and two o'clock. There was not at first the slightest clue to point to the murderer, except that two articles were found near the spot which might or might not have some connection with the crime. One was a metal badge of a tiger such as a soldier might wear on his cap or tunic. The other was a black bone overcoat-button, through two holes of which there was drawn a strip of wire, sharp at one end and blunt at the other,

about an inch and a half long: presumably the button had been fastened to somebody's coat by this wire instead of by thread.

There was no reason whatever to assume that either the badge or the button belonged to anybody concerned in the crime: they might have been dropped there by any other person crossing the common or even by members of the foolish crowd that had gathered to stare at the dead girl. The police, however, having nothing else to work on—for they had soon confirmed that Nellie True was both respectable and without known enemies—advertised these articles in the daily newspapers. They said, incidentally, that the metal badge appeared to be that of the Gordon Highlanders: whereas, in fact, it was the badge of the Leicestershire Regiment.

Results came very quickly from the Press advertisements. Apart from the usual false information which always reaches the police on such occasions, two men called at the Tottenham Court Road police station to offer a suggestion about the history of the badge. One of them, David Greenwood, a youth of twenty-one who had recently been discharged from the Army with shell-shock after three years' service, thought it likely that the badge was his, inasmuch as he had owned one of that type, which he wore as a memento of his service in the R.A.M.C. attached to the Leicestershires, and had sold it during the last week-end to a civilian in a tram near the place where the girl was killed. The other man was a workmate of his at a factory off Oxford Street, engaged in manufacturing aeroplane parts, and he had brought the newspaper articles to Greenwood's notice, persuading him, not without difficulty, to see the police. Scotland Yard at once sent the badge down to the factory and asked Greenwood if he could identify it: he did.

He was asked to come to Scotland Yard to make a formal statement, but, on the way, the inspector noticed that Greenwood's overcoat was entirely without buttons; in most of the gaps threads hung out, as if the buttons had been roughly pulled off, but the place where the bottom button had been was bare, with a jagged hole that exactly fitted the wire fastening of the button found on the common. From that moment the police had no doubt that Greenwood had done the murder: they had the task of proving his guilt.



MR. TRAVERS HUMPHREYS
1918

They were easily able to show that he was somewhere near Eltham Common on the evening of the crime: and, indeed, he lived within a stone's-throw of the place where the girl was found. His workmates insisted that his coat had possessed its full number of buttons before the fatal week-end; and, the absolutely damning evidence against him, the piece of wire in the button found on the common was shown to be identical with that used in the factory where Greenwood worked. It is interesting to note, as an example of police carefulness in preparing a case, that, when they asked the works manager about the wire, they put three or four pieces of wire of identical size and similar appearance before him, and then asked him to pick out the piece, if any, which had come from his factory. He looked at them carefully and, doubtless a little surprised, said that all of them came from there: so did a foreman who was brought in and confronted with the various specimens. They were right—and one of the pieces was that found in Greenwood's button. He was arrested and charged with the murder. He would not admit his guilt and gave an account of his movements on the previous Saturday night, the main feature of which was that he had been at home from seven till a quarter to ten, then visited the Y.M.C.A. hostel at Woolwich for supper, stayed there till the last tram left about half-past eleven, and gone straight home and to bed about a quarter to twelve, his mother being then still awake. He repeated his story of selling the tiger badge to a stranger in a tram, while he said that his overcoat had lacked buttons for some time, his puppy having torn off the last one some weeks previously.

Travers Humphreys prosecuted him for the murder at the Old Bailey on 24th April, before Mr. Justice (now Lord) Atkin, while Mr. (now Lord Justice) Slesser, who was better known in those days as an authority on Trades Union Law and as the author of a standard but, for laymen, unintelligible book on the Nature of Being, defended the prisoner. Humphreys set out the incidents which have been described, and called Dr. (now Sir) Bernard Spilsbury as a medical witness. The defence cross-examined the doctor, suggesting that a man who had been discharged from the Army with shell-shock, neurasthenia and a bad heart and was subject to continual fainting-fits, could not have committed the

crime. On this the doctor refused to express a decided opinion: in his view it was impossible to say whether Greenwood's state of health would or would not prevent his murdering the girl. The defence then called evidence to show that Greenwood's movements were all accounted for on the night of the murder. Further, his mother and sister swore that he was not wearing the overcoat when he was out that evening. (Unfortunately for him, their statements now did not tally with statements they had given the police immediately before his arrest.) Mr. Slesser argued also that, even if the button and badge resembled Greenwood's, or even if they were his, they had not been found till some time after the crime and after numbers of people had crossed and re-crossed the common: the articles might, therefore, have got there in any number of ways without suggesting Greenwood's complicity in the crime.

The jury were evidently a little puzzled, for they were out of the court for three hours before they agreed on their verdict of guilty against him. Doubtless, the cricumstantial nature of the evidence against him made them hesitate even though it was conclusive of his guilt. They added a recommendation to mercy, in view of his youth and good army service. The prisoner, asked if he had anything to say, again declared his innocence and, a much more surprising thing, asked the Judge to disregard the recommendation to mercy, saying that he would rather die than have the disgrace of the conviction on his head. He appealed to the Court of Criminal Appeal on the grounds that the evidence for the prosecution was so circumstantial that the Judge at his trial should have summed up much more precisely than he did, and also that the finding of the badge and button near the girl's body was not serious evidence against him, because so many people possessed similar articles and might have dropped them there. The Court dismissed his appeal, but Greenwood was reprieved on the eve of his execution. The reprieve was undoubtedly due to the jury's recommendation to mercy and not to any doubts about the justice of their verdict, as Mr. Christmas Humphreys demonstrates in his book, *Seven Murderers*, which is in part concerned with this prosecution by his father.

Some idea of the depths to which war-hysteria carried the public

at this time may be gained from a notorious case in which a young airman who had become a Member of Parliament, Noel Pemberton Billing, was charged with publishing a false and defamatory libel on Miss Maud Allan, the dancer, and J. T. Grein, the dramatic critic and producer. Miss Allan was a Canadian of British race, while Grein was a Dutch Jew who, after many years of residence in England, had become a naturalized Englishman: their origin was probably the main reason why the ultra-patriotic Pemberton Billing picked on them for a particularly unpleasant attack in an obscure periodical which he published and edited. The paper was originally named the *Imperialist* and, later, the *Vigilante*.

In the *Imperialist* of 26th January, 1918, an article appeared which declared that the German Secret Service had compiled a list of no fewer than 47,000 prominent people in Great Britain who were addicted to indecent practices. "It is a most catholic list," the article went on, "and the names of Privy Councillors, wives of Cabinet Ministers, even Cabinet Ministers themselves, diplomats, poets, bankers, newspaper proprietors and numbers of members of His Majesty's household" were included in it. The object of the compilation, the writer continued, was to guide German secret agents in selecting influential people in this country who, by threats of exposing their vices, could be blackmailed into weakening British war-efforts and assisting German ends. Three weeks later, the same paper (this time as the *Vigilante*) printed a paragraph about a performance of Oscar Wilde's *Salome*—a play which the Lord Chamberlain has always refused to license for public presentation—by a private society, the Independent Theatre of which Mr. Grein was the chief organizer. Miss Allan had taken part in the performance as Salome, a speaking and dancing role in the course of which she danced a "Dance of the Seven Veils" devised by herself. The paragraph in the *Vigilante* began with a headline too disgusting to reproduce here, and went on to say that only members of Mr. Grein's Independent Theatre were allowed to witness Miss Allan's performance in the play, and that, "if Scotland Yard were to seize the list of these members, I have no doubt they would secure the names of several thousand of the first 47,000." Taken together, these two paragraphs clearly insinuated that the performances organized by Mr. Grein and

Miss Allan were such as would assist the objects of the German agents who were profiting by the alleged improprieties of our 47,000 evil-living public men and women, while the headline imputed direct immorality to the two people actually named.

Travers Humphreys prosecuted Billing at Bow Street on 7th April. The proceedings were comparatively short, and the only point of interest was that Mr. Grein, called as a witness for the prosecution, declared that he thought Wilde's play a masterpiece and saw no reason why it should not be produced anywhere: he added that he hoped to be entrusted with the organization of British dramatic performances in neutral countries, under the auspices of the Ministry of Propaganda, and that, if so, he certainly intended to include *Salome* in the repertoire. After Billing was committed for trial, the Ministry of Propaganda issued a statement through the Press Bureau that it had no intention of sending Mr. Grein on such a mission, but there was no sort of accusation of bad faith against him. There had been a genuine misunderstanding: Grein fully expected his proposal to be approved, but the Ministry of Propaganda did not approve his choice of plays and authors.

The trial opened at the Old Bailey before Mr. Justice Darling on 29th May, and lasted for several days. Humphreys had now as leader Mr. Hume-Williams, K.C., who, like the Judge himself, was to find himself unexpectedly mentioned in the evidence; Pemberton Billing conducted his own defence, and did so with deliberate, reckless defiance of legal procedure and common decency. He began, the moment the charge was read, by objecting to Mr. Justice Darling taking the case, because, he said, he had criticized the Judge adversely in his paper for his levity in court, which criticisms must, he feared, have come to the Judge's notice. "I can assure you at once that they have not," the Judge replied and Billing then said that he had appeared before the Judge in a civil case and been badly handled by him. Mr. Justice Darling said coldly that this objection was beside the point: "People cannot choose who shall try their cases."

The case for the prosecution was briefly outlined, and Miss Maud Allan was called as the first witness. She was then subjected to vile cross-examination by the prisoner, who insisted, despite the

appeals of the witness, counsel and the Judge, on dragging to light every sort of scandal, real or imagined, with which he hoped to besmirch her. He did this on an undertaking to prove the facts as part of his defence of justification, but he never made good his undertaking. Instead, he asked Miss Allan numerous questions about a notorious murder committed in America by a former member of her household, explaining that, as she had been exposed in her childhood to such associations, these might now be having their effect on her art. (It may be mentioned, though the point is not relevant here, that the justice of the American conviction is open to grave doubts, and that possibly an innocent man was executed for the murder.) In his view, Billing explained, the dance of Salome in Wilde's play was nothing other than a mimed expression of vice. He asked Miss Allan if, at the time of her first professional appearances in England, she had not been attacked for wearing too few clothes on the stage; to which she retorted that, compared with present-day stage costumes, hers would be described by critics as excessive.

"It's a German art, isn't it, this type of dancing?" was a typical question put to her by the prisoner. And then he asked her if she had ever gone to Number 10 Downing Street, the Prime Minister's residence.

"I had that honour," Miss Allan replied.

"Did you ever dance there?"

"Certainly not."

"Did you meet Mrs. Asquith there?"

"Most naturally. I was her guest."

Billing afterwards stated that the Germans and their agents. intended to blackmail their 47,000 victims into bringing Mr. Asquith back into power and so obtaining a "German peace." No other witness was called for the prosecution, and the prisoner expressed surprise that Mr. Grein had not gone into the box The prosecution explained that they were taking Miss Allan's case first, and Billing said that, in these circumstances, he would himself call Mr. Grein as a witness. At the same time he asked that he might be given until the next day to prepare his defence, as he had not expected the prosecution to close its case so soon.

Next morning he opened his defence by calling a Mrs. Villiers-

Stuart, who assured the Court that she had actually seen the mysterious Black Book. When Billing asked her to mention some of the names she had read in it, the prosecution protested on the ground that the book must be produced in court. Mr. Justice Darling upheld this objection, because there was as yet no proof before the Court that the book existed. Billing declared that his efforts to trace its present whereabouts had been in vain; but it had originally been in the library of the King of Albania, the former Bavarian Prince Wilhelm of Wied. Mrs. Villiers-Stuart said that she had been shown the Black Book by two Army officers, whom she named: both of them had been killed at the Front, and she hinted that their death was the work of people who were anxious to keep secret the existence of the book. Her own life, she said, had been threatened because she was determined to reveal its contents.

After another of his many brushes with the Judge, Billing suddenly asked her, "Is Mr. Justice Darling's name in the book?"

"It is," she replied.

"Is Mrs. Asquith's name in the book?" he shouted.

"It is."

"And Lord Haldane's?"

"It is."

By this time the court, which was packed with Billing's partisans, was in an uproar. The Judge tried to silence the witness and to stop the prisoner asking her such questions, but Billing yelled, "It will take more than you, my Lord, to protect these people."

Mr. Justice Darling warned him that, if he did not behave himself properly, there would soon be an end to the case altogether, at which Mrs. Villiers-Stuart, encouraging her friend, cried, "Never mind him, Mr. Billing. I'll carry on!" This was too much; the Judge ordered her out of the witness-box and out of the court. She was succeeded by an even more peculiar person, one Captain Harold Spencer, an aircraft examiner, who was the actual writer of the libels. He said that he had been the King of Albania's personal A.D.C., had seen the Black Book in the latter's library, and had reported its contents to the Foreign Office, the War Office and the Admiralty. In cross-examination he admitted that he had been locked up for observation in Salonika, but he



MR. NOEL PEMBERTON BILLING, M.P. : Charged with criminal libel upon Miss Maud Allan and J. T. Grein, he was acquitted by the jury after scandalous scenes in court, for which Mr. Justice Darling was severely rebuked by *The Times*. He is seen above demonstrating his single-fire system of cooking and heating at a Homes Exhibition in Westminster a few months later. (Photo : London News Agency.)

claimed that this action had been taken as a means to prevent his telling the truth about the Black Book.

When the Court rose that afternoon, Billing asked the Judge for protection for himself, Mrs. Villiers-Stuart and Spencer, who were, he said, exposed to the violence of the people they were denouncing. The Judge tartly assured him that the Court would protect them so long as they were before it, and advised him to apply to Scotland Yard for protection outside.

Travers Humphreys opened the next day's proceedings by asking the Judge's permission to produce Spencer's medical record from the War Office files without being obliged to call as witnesses the medical officers who had drawn it up after examining him in Salonika and Malta: these doctors, he pointed out, could not possibly arrive in time to give evidence in the case. The Judge refused the application, on the ground that the record was inadmissible as evidence, unless it were attested by the doctors in person.

Then Billing called his next witness, Lord Alfred Douglas, now a man of forty-eight. He had translated *Salome* in 1893 with Wilde's assistance, from the French in which that author had originally written it. In his present view, he said, the play was a disgusting affair, his own share in it being yet another proof that Wilde "had a most diabolical influence on others" and was "the greatest force for evil in Europe for the past three hundred and fifty years." He admitted, however, that Wilde would have been shocked by the filthy heading of the article in Billing's paper. Rising to cross-examine him, Mr. Hume-Williams began to read a letter from Wilde to the witness: it was nothing other than the letter which blackmailers had tried to sell back to Wilde on the eve of his quarrel with Lord Queensberry, and which has been mentioned in the first chapter of this book. Lord Alfred Douglas protested, not unreasonably, against the fact that "Every time I come to Court this beastly drivel is brought out," but any dignity his protest may have had was destroyed when Pemberton Billing solemnly raised his voice to object to the prosecution "throwing this mud" at his witness.

After this incident, Lord Alfred Douglas accused the Judge of bullying him, both on this occasion and at a previous trial in which he had figured, adding a remark which can hardly have pleased

Billing and Spencer, on whose behalf he was appearing: "It's no pleasure for me to come here and help out these scoundrels." he said.

The dramatic critic of the *Morning Post*, who had been subpœnaed by the defence, agreed that his criticism of the performance of *Salome* had described it as "a bizarre melodrama of disease." He had been obliged to go to see it, he said, but he could not understand why anybody should want to see it for fun. In answer to a question by the prosecution, he agreed that he did not think he had suffered any harm from seeing it. He was followed in the witness-box by no less distinguished a person than Father Vaughan, the Farm Street priest who had for so many years filled his church and the newspapers with his robust and well-rounded denunciations of immorality in Mayfair. The moment he entered the box he began to explain in a loud voice that he had come there as an Englishman and a patriot to testify to the majesty and sanctity of the Lord. Mr. Justice Darling waited for the end of a sentence and suggested to the witness that "You may say all this to-morrow as a priest"—the day was Saturday—"but at present you are here only to answer relevant questions."

Such questions were not to be expected from Pemberton Billing, who merely extracted from the willing witness certain broad and characteristic pronouncements about the wickedness of the world in general and his Mayfair parishioners in particular. Father Vaughan said he had not seen the performance of *Salome* of which Billing had complained in his paper, but he had read the play and considered it disgusting. As he left the box he apologized to the Judge for any slips in his behaviour, and the Judge remarked, "If you had read the Rules of Evidence instead of *Salome*, Father Vaughan, I am sure you would not have made any slip."

This day ended with the evidence of two doctors and another dramatic critic, who all thought the play degenerate. Then Billing complained of a headache, and the case was adjourned over the week-end.

Billing's first witness on the resumption was Mr. Grein. The prisoner's intention was, of course, to attack him, but as it is against the rules of evidence to discredit one's own witness, the Judge soon began to intervene. The prisoner gave up the attempt

after a while and, murmuring, "The laws of evidence are beyond me," sat down and ceased his questions. The prosecution then cross-examined Mr. Grein and asked him to name other great actresses besides Maud Allan who had played the part of Salome without any obvious ill-effects on their audiences or themselves. The witness replied that, for the most part, they had sung the part in Strauss's opera, which is based on Wilde's play. Mr. Justice Darling commented that this was a very different matter, because "There is not one in a hundred singers with whom you can hear the words."

Mrs. Villiers-Stuart now returned to the box, and quickly rivalled her previous exploits as a sensational witness. She was asked whether she had tried to bring the contents of the Black Book to the knowledge of any prominent, patriotic Englishman, and said that she had.

"Who?" asked Billing.

Mrs. Villiers-Stuart pointed to the leader of the prosecution. "Mr. Hume-Williams," she replied.

But it turned out that Mr. Hume-Williams had not taken her seriously. After this superb beginning, she told the Court that the Black Book was now, so far as she knew, in the old British Embassy in Berlin. She added, in reply to another question, that she assumed that all the 47,000 British people in the book were traitors, or else the Germans would not have mentioned them in it. "That," commented the Judge, "assumes a strict truthfulness in the Germans for which I have never before heard them given credit."

Billing closed his case by delivering a wild speech to the jury. Its relevance and weight may be judged from the fact that he put forward, presumably as an argument in his defence, the assertion that it was easier in wartime for a German Jew to secure a season-ticket in England than for a man who had been English for five generations. The point of this remains obscure. He then left the solicitors' table, from which he had so far conducted his case, and entered the dock. There he interrupted Mr. Hume-Williams's speech for the prosecution at the end of almost every sentence. The Judge occasionally threatened to have him taken to the cells, but Billing continued his observations. Mr. Hume-Williams began

his speech by paying a compliment to Mr. Justice Darling, who, he said had served his country for a quarter of a century both as a senior Judge and as a Privy Councillor.

"I wish you had not alluded to that," said Mr. Justice Darling, with a smile, "because we have been told that practically all the Privy Councillors are in the Black Book."

After Mr. Hume-Williams had finished speaking, the Judge summed up, to the accompaniment of interjections from the prisoner, from Captain Spencer, who was removed from the court, and from Lord Alfred Douglas, who met the same fate. Despite the Judge's threats, Billing was permitted to remain in court to the end. The jury retired and came back after an hour and a half with a verdict of—not guilty! This was received with uproarious cheering throughout the body of the court. The gallery was at once cleared, by the Judge's order, and then the main body of the court. The prosecution announced that, in view of this verdict, they did not propose to proceed with the other counts against Billing, who was released from custody and received a tumultuous reception from his friends and a vast crowd outside the Old Bailey.

Not for many years had such scenes been played out in a British Court of Justice. The perversity of the jury's verdict was unprecedented: a woman was foully libelled, no particle of serious evidence was given to justify the libels, and yet the jury acquitted the culprit. Further, the behaviour of the prisoner and his witnesses, and the manner in which the trial had been used to spread the most imbecile and scandalous fables about a number of public men and women, made a profoundly disagreeable impression on sane public opinion.

By a coincidence, Travers Humphreys appeared next day before Mr. Justice Darling in another libel case, in which Henry Murray, an artist, was charged with libelling Sir William Marwood, the joint permanent secretary of the Board of Trade, and other transport chiefs who had rejected a scheme for establishing a railway clearing house. Murray was fined a hundred pounds and ordered to pay the costs of the trial and to enter into his own recognisances in five hundred pounds to be of good behaviour for two years. The Judge took the opportunity to reply to criticisms of his handling of the Billing case by saying that, in a criminal

case, he always wished to exclude as little as possible of the evidence put in by a defendant, in order that the latter, if found guilty, would not be able to go to the Court of Criminal Appeal with a piteous story that he had not been allowed to present his whole case to the lower Court.

Pemberton Billing's popularity with the mob did not very long survive the end of the trial. He sought unsuccessfully, in association with Horatio Bottomley, to create a "National Party" in the House of Commons with himself as leader and the egregious Captain Spencer as his lieutenant; but, with the coming of peace a few months later, he gradually faded out of the limelight and retired into obscurity.

If Pemberton Billing's and Henry Murray's behaviour may be explained, though not excused, by their falling victims to war-hysteria, the next case to be described shows that there were other people who found in that disorder a convenient means for lining their own pockets. Nothing in the War period was more despicable than the hounding down of unfortunate men whose only crime was that they were born in Germany and had come to this country to begin a new life in more congenial circumstances and, as naturalized British subjects, to adopt a new allegiance. It is natural enough that the loyalty of such men was second to that of no other class in the country, and many, perhaps most, of them had sons serving with the British forces. This did not save them from the facile insults of loud-mouthed patriots of the Billing and Bottomley type, some of whom founded organizations to encourage this form of persecution. Prominent among these was a society called the "Anti-German League," which was founded by a journalist, Edward Chatterton. He was eventually prosecuted by Travers Humphreys at the Old Bailey on a charge of misappropriating funds belonging to the League.

Only the vaguest descriptions of its activities were given in court, but a clerk employed at its offices in Victoria Street, London, said that Chatterton used to arrive about eleven o'clock in the morning, glance at the post, eagerly inquire what fresh subscriptions had arrived, and go out about noon "to see the time," an inquiry which he conducted at leisure in the bar of a neighbouring hotel. The committee of the League consisted in the main of

titled people, and it was stated that each of these was entitled to receive £250 a year as "campaigning expenses," on the assumption that they would, or might, hold propaganda meetings. The chief part of the League's work, however, was the publication and distribution of anti-German circulars, which, as one lady member of the committee characteristically explained, were chiefly intended for "the lower orders." It is true that some afternoon meetings were held, at which various paid orators and artists assisted, including our old acquaintance Horatio Bottomley, who demanded and received fifty guineas for his patriotic and anti-German address. The usual fee for speakers, it may be mentioned, was eighteen guineas, but Bottomley's price was in proportion to his value as a popular draw.

Chatterton was accused of misappropriating two amounts from the League, £215 and £25. He urged in his defence that he was entitled to this money for his expenses in floating the League, and a witness declared that a resolution to this effect had been passed by the committee; but the jury did not accept this story, and he was sentenced to six months' imprisonment with hard labour. The Common Serjeant, Sir Albert Bosanquet, remarked in passing sentence that the evidence disclosed a sordid history on the part not only of the defendant but also of certain titled people who had sponsored the League. No one who saw them listed as members of its committee, Sir Albert went on, would suppose that they were doing otherwise than giving their time and abilities to achieve some good for their country, whereas in fact they were merely hiring out their names at a price of two hundred and fifty pounds a year, at a time when members of their own and other families (among them, of course, those of the naturalized Germans whom the League was attacking) were risking their lives for their country.

It did not often happen to Travers Humphreys to be briefed to defend a murderer. The usual, almost the invariable, practice in murder trials in this country is that, while the case for the prosecution must be presented with extreme simplicity, calm and fairness, the defence is permitted to use whatever emotional and rhetorical licence it cares to employ; obviously, Humphreys's special gifts were better fitted to the former than the latter role. But in the trial about to be described, that of Colonel Rutherford, he demon-

strated that his habitual clear and dispassionate advocacy, with its absence of all frills, could serve a defendant's interests at least as well as the embroidered rhetoric of the traditional defending counsel. The trial was an unusual one in many ways; but it is reasonable to suppose that, if the defence of Colonel Rutherford had been entrusted to a barrister of the emotional type, the jury would not have reached so clear and so swift a decision. Humphreys was just the man to steer the right course between the various dangers which threatened his case: a little too much emphasis here, or an overdone gesture there, and his client might have been regarded in a very different light by the Judge and jury. This defence was a masterpiece of skill, judgment and discretion.

Lieutenant-Colonel Norman Cecil Rutherford, D.S.O., was thirty-six years of age in January 1919. A lecturer on anatomy and embryology at London Hospital at the outbreak of the War, he joined the Royal Army Medical Corps and served with distinction in France. In 1917 he received the award of the Distinguished Service Order for "conspicuous gallantry and devotion to duty when in charge of an advanced dressing-station." Shortly before the end of the War, he moved from a large house in Mill Hill to a still larger one at Carshalton in Surrey: with him went his wife who was a woman of some wealth, a year younger than himself, and their six children. Among their constant visitors was an old medical friend of Rutherford's, Major Miles Seton, who had qualified as a doctor in Edinburgh, gone through the Boer War in that capacity, and established a private practice in Melbourne, Australia; with the outbreak of the War, he joined the Australian Army Medical Corps, accompanied the Anzac troops to Egypt, and was eventually appointed to a medical post at the Australian headquarters in the London District. Rutherford, though several years Seton's junior, had coached him for a medical examination in Edinburgh a dozen years previously: their friendship had ripened despite Seton's absence in Australia and he had an open invitation to stay at the Rutherfords' house whether or not Rutherford himself was there. Another proof of their intimacy was that Seton stood godfather to the youngest Rutherford child. He was a single man, reserved in manner but popular.

On the evening of 13th January, 1919, he was staying at the

house of his cousin, Sir Malcolm Seton, K.C.B., in Holland Park, Kensington. About ten o'clock that evening, they were sitting in the smoking-room after dinner when a parlourmaid entered, saying that Colonel Rutherford had called and was asking for Major Seton. He went downstairs to the dining-room into which the maid had shown Rutherford, and the two men talked for about a quarter of an hour. Nobody knows what they talked about, but their voices were not raised and there was no suspicion of a quarrel. The servants went up to bed, leaving Seton to show out his visitor. Suddenly, however, four or five shots were heard—with a perceptible pause before the last one—and Sir Malcolm Seton, rushing downstairs, found his cousin lying wounded by the door of the room, while Rutherford, a tall, swarthy, handsome figure, stood near the window with a smoking revolver beside him.

"Did you do this?" Sir Malcolm asked.

"Yes," said Rutherford quietly.

Lady Seton bent over the motionless man. "Oh, you've killed Miles!" she cried.

"Yes," Rutherford agreed in the same calm, indifferent manner, "I only wish I had another bullet for myself."

"Will you stay here till I come back?" Sir Malcolm asked him, preparatory to fetching a doctor. He noticed that Rutherford's mood had now changed and he was restless and distressed.

"Yes," the latter replied and, the moment Sir Malcolm hurried away, he walked across to Lady Seton and helped her raise the body of his victim. He made no effort to leave the house, but, when he went back to the window, Lady Seton heard a click and saw him with the revolver in his hand.

"Put that thing down at once!" she said. He obeyed her, and she asked him to promise not to touch it again.

"I promise you," he said, and added with a laugh, "Dear lady, I wouldn't have promised if it had been any use to me."

To make certain of this, she bravely ordered him to bring her the revolver. He did so. Then he asked, "Will you do me a favour?" She said, "Yes," and he handed her an old letter, asking her to burn it for him. Lady Seton realized that she ought not to do this, but, having promised, she said to him, "You can go to the smoking-room yourself, if you like, and burn it." He thanked

her, went away, burned the letter and returned. Then the front-door bell rang, and she sent him to answer it. He came back and informed her that a neighbour, alarmed by the shots, had come to offer help. Lady Seton told Rutherford to say that she did not wish anybody to come in, and he discharged this errand like any servant. When the bell rang again, he opened it to a local doctor whom Sir Malcolm had roused.

"Are you a doctor?" Rutherford asked. "Come in!" And he led him to the body.

"A case of suicide, I suppose," the doctor remarked, after he found that Seton was dead. Lady Seton shook her head, and Rutherford remained imperturbably silent. When Sir Malcolm came back with a policeman and the latter told Rutherford to accompany him to the station, the murderer went away quite calmly, first saying, "Will you let me get my cap and gloves?" and fetching them. At the police station he asked for paper and wrote a short note to his wife, telling her that "the worst has happened" and that he had killed Seton. He crumpled this up, remarking that it might alarm her too much, and wrote instead, "I am sorry: an awful thing has happened. Seton is dead."

These details have been set out here because they help to show the very unusual nature of the case. As will be seen, they at first increased the difficulty of the task for the defence with which Humphreys was at once entrusted, but in the long run they helped him when he decided on the line to take.

Dr. Spilsbury gave evidence at the inquest and said that, so far as he could judge, six bullets had been fired into Seton's body. The police surgeon reported that, examining Rutherford at the station half an hour after the crime, he found him sober, but alternately dazed and excitable. Humphreys elicited from Sir Malcolm and Lady Seton and the maid who had shown in Rutherford that, if voices had been raised in the dining-room, they would in all probability have heard them. Mrs. Rutherford was called as a witness, but Richard Muir, who appeared as her counsel, at once objected that she was not a competent witness unless her husband requested her to give evidence. As Rutherford had not done so, the coroner upheld this objection and Mrs. Rutherford did not give evidence. One of her maids was called instead who

testified that Colonel and Mrs. Rutherford were unhappily married and had lately been quarrelling fiercely: earlier in the evening of the murder, Rutherford had locked his wife in her bedroom, stormed at her through the door, and told the maid to pack his bag, since he was leaving home. The maid saw a revolver among his things. The coroner also read a letter which Mrs. Rutherford had written to her husband some little time previously, in which she said that she could no longer bear to live with him and begged him to let her divorce him.

The jury returned a verdict of murder against Rutherford, and a few days later he was charged at the West London police court, where Sir Archibald Bodkin prosecuted him for the wilful murder of Seton. The prosecution sought to establish that Rutherford had shot Seton deliberately and with premeditation, being moved by jealousy of Seton in regard to Mrs. Rutherford. Sir Archibald called evidence to prove that Seton had frequently stayed at the Rutherfords' house when its master was absent, that he was on terms of great friendship with Mrs. Rutherford and usually occupied the next room to hers. His photograph used to stand in Mrs. Rutherford's dressing-room, but was removed when Rutherford was expected home. More letters from Mrs. Rutherford to her husband were produced, which showed that, after an attempt at reconciliation, she had hardened in her desire to secure a divorce from him. The implication of all this was, of course, that Rutherford, receiving such letters from her when he was in France and knowing that Seton was in close association with his wife when she wrote them, had jumped to the conclusion that Mrs. Rutherford and Seton wanted to get rid of him in order to marry one another. The prosecution did not go so far as to suggest that there was any substance in Rutherford's suspicions—and it may be stated at once that there was none—but it argued that the murder was the deliberate act of a jealous man.

Humphreys's tactics in answer to this case are most interesting. An emotional lawyer might have seized on the handle offered by the evidence of the maids and the letters and, enlarging on the admittedly familiar relations between Mrs. Rutherford and Seton, have let it be supposed that Rutherford—the brave soldier fighting for his country abroad—had been wronged by Seton. A French

or American lawyer would certainly have taken this line; so might many English lawyers at a period when Judges and juries tended to show sympathy with soldiers who committed crimes in such circumstances. Rutherford himself wished his defence to be based on the "Unwritten Law," but Humphreys was at once too sound a lawyer and too skilful a tactician to take this simple path.

It may be revealed here that he threatened to throw up his brief unless his client allowed him to conduct the defence in his own way; Rutherford at last and reluctantly agreed. Without disclosing at the police court what his defence would be, Humphreys's cross-examination of the witnesses proved that justification of the murder was no part of it. Thus he asked a servant who had spoken of Seton's stays in the house during Rutherford's absence at the Front, and of the photograph incident, "Have you ever seen anything to suggest to you that there was any improper intimacy between Mrs. Rutherford and Major Seton?"

"No."

He then elicited from her that Rutherford was a man of overbearing temper, inclined to sudden fits of rage and jealousy. Then he asked the parlourmaid at Sir Malcolm Seton's house, if she noticed that Rutherford, after the murder, "had a dazed look on his face."

"Yes," she said. "He struck me as being like a man who has been dozing and is waking up."

This was the key to the defence thenceforward.

The magistrate committed Rutherford for trial, and on 7th April, not quite three months after the crime, the case opened at the Old Bailey before Mr. Justice Salter. The Attorney-General, Sir Gordon Hewart, led for the Crown, with Sir Archibald Bodkin and Mr. (now Sir) Percival Clarke, the son of the great Sir Edward Clarke, to assist him. Mr. Rigby Swift, K.C. (now Mr. Justice Swift) was brought in to lead Humphreys for the defence, and Sir Richard Muir held a watching brief for Mrs. Rutherford. When Muir, suffering from a cruel bereavement—his only son had died a week before the Armistice—found himself temporarily unable to appear, his place was taken by Mr. Roland Oliver.

The Attorney-General set out a strong case against the prisoner, who, he said, "had behaved with no little determination and no

little deliberation." The shooting of Major Seton was "no motiveless act," but one carefully planned and coolly executed. Was it not significant that, when Rutherford wrote the notes to his wife from the police station, he worded them as if he did not expect her to be surprised at the news of Seton's death? The murder was one of jealousy—unfounded jealousy, perhaps, but jealousy all the same—and, as such, entailed the extreme penalty under English law.

Travers Humphreys's tactics were now at last explained. The defence was to be that Rutherford was insane when he murdered his friend. All the cross-examination of the Crown witnesses by Rigby Swift and himself was directed towards confirming and corroborating the evidence of the parlourmaid at the police court who spoke of Rutherford being "like a man who has been dozing and is waking up." And indeed, the Inspector who had taken the charge against Rutherford that night at the police station, used almost identical words in saying that Rutherford "struck me as a man who had just awakened from a sleep." The police surgeon said the same thing in more technical terms, and agreed that Rutherford did not seem capable of fully appreciating what he had done. An Army doctor who had served with Rutherford abroad revealed that the latter suffered from dermatitis and eczema so badly that the irritation, and the consequent sleeplessness, had possibly affected his mind.

When the case for the defence was opened, this line was further pursued. A brother of the prisoner said that one of their aunts had died insane, that Rutherford had been kicked on the head in France in a football match and afterwards been strange in manner, and that, when the Armistice came, he said, "I'm sorry the War is over: I hoped to get killed this time out in France." A former medical colleague was shown a letter written some time before by Rutherford to Mrs. Rutherford, and said that its incoherence pointed definitely to its being the letter of a madman. But this witness admitted, when Sir Archibald Bodkin cross-examined him, that the notes which the prisoner had written to his wife from the police station were perfectly coherent and, in fact, the best written he had ever seen of Rutherford's.

After this slight set-back, Travers Humphreys retrieved the

position by examining several witnesses who had served with Rutherford in France. They spoke of his being buried by a shell, which had increased the already obvious abnormality of his nature. Always, they said, he was liable to sudden fits of fury, which contrasted with his usual courtesy; these attacks occurred two or three times a month. On one occasion, he had accused one of his subordinates of "following me round on parade with your eyes." All of them testified to the painful nature of his illness and the insomnia which it caused. Then the defence produced a report by the medical officer of Brixton jail, who had kept the prisoner under observation after his arrest. The doctor said that, in his view, Rutherford was certifiably insane at the present moment, though fit to plead, and had been insane at the moment of the crime.

A mental specialist was asked by Humphreys, "From your interview with the accused and your knowledge of the facts, have you formed any opinion whether on 13th January he was in a condition to appreciate the difference between right and wrong?"

"The opinion I formed was that he was incapable of appreciating the difference between right and wrong," the witness replied. In his view, he added, Rutherford had gone that evening to see Seton, prepared to commit either suicide or murder.

Another specialist stated that Rutherford had told him in jail that he murdered Seton because of his influence over Mrs. Rutherford. When the doctor asked what he meant by this, Rutherford explained oddly that, "On one occasion one of my boys spoke of big-game shooting in South Africa."

"Was that enough to justify your attitude?" the doctor asked him.

"Yes," said Rutherford, who added, in reply to another question from the latter, "I have always had perfect faith in my wife."

This evidence was decisive. The jury required only five minutes to return a verdict that the prisoner was guilty of murder but insane, and the Judge said that he agreed with them. Rutherford was sent to the Criminal Lunatic Asylum at Broadmoor in Berkshire.

The affair did not end with this. In the first place Sir Malcolm Seton sent a letter to the Press. The procedure at the trial, he pointed out, had unfortunately not permitted the fact to be estab-

lished that there was no atom of foundation for Colonel Rutherford's jealousy of Major Seton in so far as this was based on a belief that the dead man was guilty of improper association with Mrs. Rutherford. Sir Malcolm wished to set on record that this belief was utterly baseless.

His protest was remembered in the following year, when Mrs. Rutherford lodged a petition for a divorce from her husband on the ground of his persistent cruelty to her and his adultery with a young woman, Rutherford's cousin, who had been her companion at the house at Mill Hill. We may refer to this lady here as Miss Johnson, since it would be unkind in the circumstances to use her real name. The case was heard in June 1921: Colonel Rutherford did not contest the petition, but the co-respondent, Miss Johnson, denied the charge of adultery.

Mrs. Rutherford stated in evidence that she had originally eloped with her husband in face of her family's objection to him, and that he had frequently attacked and injured her during their married life, and had more than once threatened to kill her. Only her father's intervention had made her consent to go on living with him. In 1914, his cousin, Miss Johnson, had come to their house as a companion-help and stayed till 1917. During that period, Mrs. Rutherford said, Miss Johnson confessed, not only to her, but to Major Seton also and to a maid, that Rutherford went to her bedroom one night and committed adultery with her. The maid gave evidence and confirmed this story, adding that, both before and after the night in question, Miss Johnson had confessed her passion for Rutherford.

Miss Johnson, however, vigorously contested Mrs. Rutherford's statement and the maid's evidence. Her story was that Rutherford had certainly come to her room one night, but that she had indignantly sent him away. She had certainly told the others of this, she said, but she had neither committed adultery with him nor confessed to it. Evidence was given that Mrs. Rutherford had offered to withdraw her petition, in so far as it concerned Miss Johnson, if the latter would obtain a medical certificate that no adultery could have taken place. To this Miss Johnson had replied with an angry letter, in which she bluntly refused to be "man-handled" by any doctor and threatened, unless Mrs. Ruther-

ford withdrew her petition, to tell the King's Proctor of Mrs. Rutherford's own misconduct on various occasions. Mrs. Rutherford's solicitors had at once sent the letter themselves to the King's Proctor, and eventually Miss Johnson submitted to an examination, the result of which was somewhat indecisive, though it tended to exculpate her. Other letters were produced at the trial, in which Mrs. Rutherford wrote affectionately to Miss Johnson long after the alleged adultery and confession: Mrs. Rutherford explained, reasonably enough, she had written in this manner because she had not wished to antagonize the only person, Miss Johnson, who could help her to obtain her freedom from her lunatic husband.

Mr. Justice Branson, who heard the case, said that the medical evidence was certainly more consistent with Miss Johnson's innocence than otherwise, but, he said, he failed to understand why Miss Johnson had not taken an earlier opportunity to be examined by a doctor of her own sex if she objected to being "man-handled." He agreed that Mrs. Rutherford's recollection, as also that of the maid, was not wholly trustworthy, but he held that the charges against Colonel Rutherford and Miss Johnson were proved, and granted Mrs. Rutherford a decree *nisi*.

Miss Johnson then took the case to the Court of Appeal, which decided that the charge of adultery had not been made out against her and that the decree could not stand. It was now Mrs. Rutherford's turn to appeal, and the matter came before the House of Lords in 1922. The late Lord Birkenhead (formerly F. E. Smith) presided, as Lord Chancellor, and there sat with him Lords Dunedin, Atkinson, Sumner, Wrenbury and Carson. Sir John Simon led for Mrs. Rutherford, having with him Mr. Bayford, K.C., Mr. Cotes-Preedy and Mr. Bushe James; for Miss Johnson appeared Mr. Cartwright Sharp and Mr. G. B. Guthrie. Sir John Simon argued that this was essentially a case where the opinion of the Judge who had heard and seen the original witnesses ought to prevail, especially since the medical evidence, on which Miss Johnson had won her appeal, was not inconsistent with her guilt. Mr. Bayford, supporting him, said that it was undoubted that Colonel Rutherford had entered her bedroom on the specific occasion; if her story was correct and nothing happened between them, why, he asked, did not Miss Johnson leave the house next

day instead of apparently continuing to acquiesce in her employer's attitude to her? Against this, Mr. Cartwright Sharp pointed out on behalf of Miss Johnson that she was the Colonel's cousin and knew how to deal with him; so that there was no need for her to throw up her employment or to cause fresh dissension between him and his wife. Further, counsel reminded their Lordships that even Mr. Justice Branson had admitted the untrustworthiness of Mrs. Rutherford's memory, while the maid's evidence was undoubtedly too muddled to be reliable. After the case had been argued, judgment was reserved.

Lord Birkenhead had ceased to be Lord Chancellor when he and his colleagues reached their decision, but he nevertheless delivered their judgment in November 1922. It was that Mrs. Rutherford's appeal failed, that the decree *nisi* must be rescinded, and that a decree of judicial separation should take its place. In this judgment he reviewed the principal evidence and declared that there was nothing in it—neither as regards the bedroom incident, nor the exchange of letters, nor the original refusal to submit to examination—to show that Miss Johnson was guilty of adultery with Colonel Rutherford. Indeed, "I think that the evidence is such as wholly to acquit Miss Johnson of any guilt."

And then Lord Birkenhead, who had strong views about our archaic divorce laws, ended his speech with these eloquent words:

"It is evident that the arguments which I have addressed to your Lordships will result, if effect is given to them, in leaving Mrs. Rutherford bound in matrimony. It is an unfortunate circumstance that she should thus be tied for life to a dangerous, violent and homicidal lunatic, after having for many years suffered both in body and in spirit from his unfaithfulness and his cruelty. He is forty-one years of age and she is forty. We need take little account of his feelings. As regards her, we are bound to note that during many more years, unless death remove him or release her, she must look forward to a loneliness from which she can escape only by a violation of the moral law. To some this may appear a harsh and even an inhumane result, but such, my Lords, is the law of England! Your Lordships cannot, because of the sympathy which you must all feel for this unhappy victim of our marriage

laws, impeach the chastity of a woman [Miss Johnson] equally innocent and equally entitled to the sympathy and shelter of the law. The true remedy lies outside any Court of Law: it lies beyond the scope of your Lordships' faculties, sitting as the Supreme Appellate Tribunal. It rests with Parliament, if and when it thinks proper, to end a state of things which, in a civilized community, and in the name of morality, imposes such an intolerable hardship upon innocent men and women."

Lords Dunedin, Atkinson and Sumner concurred with Lord Birkenhead. Lords Wrenbury and Carson, on the other hand, agreed with the verdict of the original Judge, Mr. Justice Branson, though, in view of the fact that Miss Johnson's innocence had now been upheld by a majority of their colleagues, they preferred not to cause her unnecessary annoyance by explaining in detail the reasons for their opinion.

Other considerations apart, these divorce proceedings are of interest because they help to clear up the real mystery surrounding the murder of Major Seton. It now seems clear that Colonel Rutherford's belief, or pretended belief, in his victim's liaison with Mrs. Rutherford was not his motive for seeking him out that night and for shooting him. The Colonel knew that Mrs. Rutherford had taken her matrimonial troubles to Seton, as an old friend of both and as the godfather of their youngest child: he knew that Seton had heard the statements of Miss Johnson and of the maid who claimed to have received Miss Johnson's confession: he knew that Seton, aware of Rutherford's cruelty and misbehaviour, had offered his sympathy and assistance to Mrs. Rutherford when, at last finding further forgiveness impossible, she determined to seek a divorce. His lunatic brain may well have come to regard Seton as a prime mover in the apparently inevitable break. This would explain his otherwise nonsensical remark to the doctor in the prison that he had killed Seton because of his influence over Mrs. Rutherford. Colonel Rutherford was released from Broadmoor some years ago.

The end of the War had brought fresh duties to Travers Humphreys. First, there was much new legislation, intended to avert the worse social and economic disorders of the reconstruction period. As usual, Humphreys had much of the responsibility for

putting the new laws into practical operation: in a country where so much is left to the jurisdiction of unpaid magistrates, few of them trained lawyers, a heavy task is thrown on the professional counsel who, by their presentation of a case, elucidate and exemplify the purpose of such new legislation. Then, of course, there was the increase of crime caused by the return to private life of millions of men and women released from the strain of the War and from the discipline of the fighting forces and the munition factories. Then there was the Irish trouble, in which Humphreys, as a Treasury Counsel, had to play a part, a grim and sometimes perilous experience. And, in addition, Richard Muir was for various reasons relaxing his professional efforts as chief Senior Treasury Counsel, with the result that Humphreys as his principal colleague, found himself busier than ever; and he had always been a very busy man.

A curious case with which he was connected at this time, through the Director of Public Prosecutions, was the trial for perjury of an exceptionally good-looking young lady who called herself Mrs. Thelma Dorothy Bamberger.

Her father, an evangelical preacher, had provided her some thirty years previously with the banal Christian names of Lily Amelia, which she had long since discarded. At the age of eighteen she married a man named Jenkins, who divorced her two years later on the grounds of her adultery with one Henry Bamberger. The decree *nisi* was made on 24th March, 1910, and four days later, without waiting for it to be made absolute, she and Bamberger went through a form of marriage, which was, of course, invalid. In the next year, however, when the divorce was legally completed she and Bamberger had another wedding, at which she described herself as Thelma Dorothy Marchmont, spinster. After this they lived together most of the time, until he joined the Army at the outbreak of the War. A few weeks later she met a young man, Symonds, two years younger than herself, and lived with him until 1919: she called herself Miss Marchmont in the early months of their acquaintance, but Symonds discovered that she was married and insisted on her obtaining another divorce. She promptly instituted proceedings, on the ground of Bamberger's desertion and his adultery in a Shaftesbury Avenue hotel. Though he defended



MRS. BAMBERGER AND FRIEND : Mrs. Bamberger (on right) was described by her counsel as a little morsel of delicate china which could so easily be smashed. (*Photo : Central Press.*)

the case, he did not give evidence, and she was granted a decree *nisi* by Mr. Justice Horridge.

The King's Proctor intervened, however, because of her own adultery with Symonds. Mrs. Bamberger confessed to this but swore an affidavit that her husband and conduced to her behaviour and even encouraged her in it. The King's Proctor then alleged further adultery with a man named Steyn: Mrs. Bamberger decided that the information about this came from Symonds and, in a fit of temper, went back on her previous affidavit and declared that she had made it on Symonds's instigation. In this form the case again came before the Divorce Court and lasted for six days, three of which were occupied by Mrs. Bamberger's evidence. It was evident that her previous affection for Symonds had now turned to hatred: she insisted that he was far worse in every way than Bamberger had ever been, that he had thrown acid at her to spoil her beauty, that she had never occupied the same bedroom with him, and that her affidavit, admitting relationship with him, was his sole work.

All this was too much for the King's Proctor, who sent the papers to the Director of Public Prosecutions with a view to proceedings being taken against her for perjury. Meanwhile the decree *nisi* was rescinded. Released on bail pending her trial, Mrs. Bamberger was alleged to have sought to tamper with witnesses, and she was about to be taken into custody when she fell ill with appendicitis. After an operation and a sea-journey, she arrived at the Old Bailey in September 1920, fashionably dressed, very beautiful, and attended by a large number of curious people who had been following her adventures in the newspapers.

The prosecution began by setting out the main facts of her various divorce proceedings, and reading love-letters written by her to Symonds, which, however, she explained as being dictated by him at a time when she was terrified of him. Symonds himself went into the witness-box to give evidence against her. He told the story of their acquaintance, which began with mutual smiles in a tube train and ended with the sudden breach a few years later. He admitted having given information about her to the King's Proctor, but denied forcing her to make the false affidavit. Mrs. Bamberger's counsel Mr. Cecil Hayes, sought to discredit

Symonds's evidence by showing that he was the husband of another young woman, the father of two small children, and the sort of man who took money from Mrs. Bamberger and lived with her while her husband was at the Front, where he too ought to have been.

Her counsel also suggested that Mrs. Bamberger's affection for Symonds had been only intellectual and platonic, but many witnesses were called by the prosecution to disprove this claim. On the third day of the trial Mrs. Bamberger, whose varying wardrobe was a source of admiration to feminine spectators in court, had an attack of hysterics and her counsel announced that he would not call her or any other witness on her behalf. Later, when the final speech for the prosecution was being made, Mrs. Bamberger interrupted it with frequent sobs and screams, while her embarrassed counsel stood by attempting to pacify her. When his turn came to speak, he picturesquely described her as a little morsel of delicate china which could so easily be smashed and thrown on a dust-heap. Suggesting that the prosecution was nothing more or less than the persecution of a defenceless woman, he asked the jury to pay no attention to Symonds's evidence against her and commented on the fact that the other man, Steyn, mentioned in the King's Proctor's intervention, had not been called by the prosecution.

The jury, however, found her guilty, whereupon the prosecution then revealed yet another chapter of her matrimonial history. It appeared that, in the hectic period just before the Divorce Court proceedings, Mrs Bamberger, that fragile little morsel of delicate china, had eloped to Gretna Green with a rich old man and gone through a marriage ceremony with him. After this Mr. Justice Swift sentenced her to nine months' imprisonment, and vast crowds gathered outside the court to catch a glimpse of a woman who, for a month or two, had become the most renowned of her sex. She has recently come into court again in another name.

In January 1921, Travers Humphreys was appointed Recorder of Chichester in succession to Sir Charles Gill, K.C., and he held this judicial post for five years, a period which, incidentally, was crammed with professional work of all kinds. Out of the multitude of cases in which he was involved at the Old Bailey and elsewhere,

it will now be possible to select only a few of the most outstanding. Among these must certainly be included the prosecution of that supreme rascal of the first quarter of this century, Horatio Bottomley, whose long and triumphant record of political, public and legal success was at last brought to an end at Travers Humphreys's hand.

We have met Bottomley already in these pages when, shortly before the War, he wriggled out of the Lottery Law prosecution conducted by Richard Muir and Humphreys. The intervening period had been one of supreme triumph for him. The outbreak of the War momentarily disconcerted him, because it put an end to his profitable sweepstake ventures in Switzerland, which had for some time been his principal source of income. But he quickly rallied and, taking advantage of his status as a popular journalist, an admirable speaker and a Member of Parliament, he flung himself wholeheartedly into the path of profitable patriotism—thus exemplifying Dr. Johnson's remark that patriotism is the last refuge of a scoundrel. He presented himself to the nation—and was accepted by a large proportion of it—as the soldier's friend, the poor man's shield, and the country's inspiration. He made considerable sums as a writer and as a speaker on patriotic platforms, but not nearly enough to pay for his extravagant way of living and for the constant drain of his resources by his failures as a business man. Towards the end of the War, during which there were moments when he had reasonable hopes of becoming a Minister, if not Prime Minister, he hit on a scheme for combining the appearance of public service with the lure of his profitable lottery methods. The Government was floating a Victory Loan, in which the smallest bonds were of a nominal value of £5, issued at a price of £4 5s. These bonds were to be redeemed in annual instalments. Somebody suggested to Bottomley that this was a superb opportunity for him: he could invite smaller subscriptions, so as to give the "little man" and "little woman" an opportunity to share in the Loan, and, by joining all these subscriptions together, he would be able not only to help the Government by purchasing a considerable holding of the Loan, but also to increase his personal popularity by elaborating the element of gambling in the transaction.

Bottomley jumped at the idea, and published it broadcast. He

invited the public to send him subscriptions for the Loan in units of 15s. 6d.—representing the purchase price of a £1 share—the proceeds of which he would incorporate in a "Victory Bond Club." The annual interest on the Club's holding of stocks and the bonuses represented by the annual redemptions by the Government were to be combined in a fund which would be distributed by lot among the subscribers, who would also at any time be entitled to withdraw their subscriptions and get their money back in full. Apart from out-of-pocket expenses, which were to be deducted from the bonuses, every penny was to go to the benefit of the members of the "Club." Bottomley's reputation as a patriot stood high, and since this was not a time when people were critical—the Government wanted money, and they had plenty to invest—Bottomley's scheme was a wild-fire success. How successful it was, we shall soon see from Travers Humphreys's description of it at the Old Bailey.

All went well at first, but at the end of the War the tide turned. Suspicions were aroused about Bottomley's handling of the Club's assets: innumerable subscribers demanded the repayment of their money, and only a small proportion were fortunate. In October 1921, the Official Receiver stepped in and took over the Club's assets, which had dwindled almost to nothing. Even so, the public had little idea of the extent of Bottomley's frauds, but in the next few months the necessary information was revealed. He had an old associate, a bookmaker named Reuben Bigland, with whom he eventually quarrelled. Bigland sought revenge by publishing a pamphlet about Bottomley and circulating it by hundreds of thousands wherever it could harm his enemy. For some time Bottomley tried to avoid bringing the matter to an issue, but early in 1922 he could no longer dare to ignore Bigland, and took proceedings against him on two charges: one for inciting three men to demand money from him at a by-election in Staffordshire some time previously and the other for criminal libel in connection with the pamphlet. Bottomley's desire was that the former case, which he had some hope of winning, might be tried first, and that, if it turned out as he anticipated, Bigland would not seek to justify himself on the more serious charge of criminal libel.

Unfortunately for Bottomley the libel case came first before



Photo : Daily Mirror.



Photo : Central Press.



Photo : Daily Mirror.

Top :
As patriotically tub-thumping M.P.

Left :
Entering the court for his last trial

Right :
On release from Jail

THE FALL OF HORATIO BOTTOMLEY

the Courts, and, though Marshall Hall tried hard on Bottomley's behalf to have the hearing postponed, the magistrate ruled against him. Bottomley thereupon announced that he did not propose to offer any evidence against Bigland and the latter, who had come prepared to disclose many of Bottomley's villainies (in at least one of which he claimed to have taken part), was disappointed to find himself formally acquitted without being given an opportunity to justify his alleged libel.

The other case, which was heard by Mr. Justice Darling at Shrewsbury near the scene of the election, also went badly for Bottomley. Mr. Comyns Carr, a barrister who had frequently been insulted by him in newspaper articles, cross-examined his witnesses, all of whom had been his employees, in such a way as to cast discredit on their principal's conduct of the Victory Bond Club and other similar enterprises. Thus Mr. Carr asked one witness if he was aware that Bigland's pamphlet "contains a statement that the Victory Bond Club was fraudulently conducted by Mr. Bottomley." Mr. Justice Darling disallowed the question, but it was widely reported. Bigland gave evidence and now had the desired opportunity to disclose how he had participated in an infamous swindle arranged by Bottomley. The latter, Bigland said, owed him a sum of money and, being unable to pay, promised Bigland that he should draw a prize in one of his War Loan sweepstakes. Bottomley handed him a ticket bearing the number 3,966 and told him that it was already arranged that a man in Liverpool should receive the first prize in the approaching draw, a soldier in the trenches the second prize, and ticket number 3,966 the third prize of £1,000. In due course, Bigland's niece, to whom he had prudently transferred the ticket, received the sum promised.

Bigland, who said his conscience had been troubling him in the above matters also exposed the Greeney conspiracy, mentioned in a previous chapter, wherein he had assisted Bottomley by putting up a dummy defendant to a charge of libel. Mr. Justice Darling, who now realized how he had been deceived at that trial, admitted ruefully that he had summed up in Bottomley's favour. Mr. Comyns Carr, representing Bigland here as in London, complained to the Judge that Bottomley was trying to prejudice the jury by making audible remarks to them, and Mr. Justice Darling

peremptorily ordered Bottomley to behave. When he summed up, he asked the jury a very pertinent question. "What do you think of Mr. Bottomley still remaining silent?" he asked them in reference to the plaintiff's refusal to give evidence. And what conclusion did the jury draw from the fact that Bottomley had used all his counsel's skill to avoid going into the witness-box and to prevent awkward questions being put to him?

The jury took only three minutes to give the Judge the answer he evidently expected. They acquitted Bigland, and the *Times* next day published a leading article in which it pointed out that "the result of the trial has made it increasingly desirable that Mr. Bottomley should delay no longer a thorough vindication of his reputation." Which was, after all, only another way of saying that he had small chance of vindicating it.

Bottomley, however, followed this advice with characteristic daring. He wrote a letter the same day to the Director of Public Prosecutions, and gave it to the Press for publication, in which he stated that it was only on his counsel's advice that he had not given evidence at the Bigland trials, and that the charges made against him by his traducer were such that "as a public man" he could not ignore them: he therefore requested the Director to send a representative instantly to take a statement from him about the alleged fraudulent transactions with which Bigland had charged himself and the writer. The response of the Director of Public Prosecutions was hardly what Bottomley expected: two days later he was served with a summons to appear at Bow Street police court and answer charges of converting to his own use £5,000, the property of the Victory Bond Club.

The statement has often been made that, if Bottomley had not proceeded against Bigland, he would not have exposed himself to this disastrous prosecution. To this it may be said that Travers Humphreys had already been consulted as to the case against Bottomley for several weeks and that, while undoubtedly the disclosures at the Shrewsbury trial made things easier, their absence would not have prevented action being taken against Bottomley.

The case began at Bow Street on 8th March, 1922. Humphreys and the late H. D. Roome prosecuted, while Bottomley, as usual, chose to defend himself. He tried to have the case postponed, on

the ground that proceedings were shortly due in the Chancery Court in connection with the winding-up of the Victory Bond Club and he could not be present in two courts at once. "It is a most embarrassing position," he explained to Mr. Chester Jones, the magistrate, "and Heaven knows I have been embarrassed enough already over the thing."

Travers Humphreys submitted that there was no good reason for a postponement, and the magistrate agreed with him. Bottomley shrugged his ample shoulders and said that, in view of this decision, he would just sit through the case and let Humphreys say whatever he liked. He was beginning to work up his usual Law Court pose as an ill-treated public benefactor and he took care that his arrival and departure from the court should be loudly cheered by a crowd of people who were well paid for so doing.

The tactics on which Travers Humphreys had decided are extremely interesting. He knew that Bottomley was a swindler and an almost undisguised swindler: and at the same time he knew, if only from his experience of the 1914 case in which the defendant had secured an acquittal despite all Richard Muir's efforts, that Bottomley was by far the most formidable adversary with whom counsel could be confronted in a case of this kind. Bottomley's brilliance as a lay lawyer, his consummate skill in examining his own witnesses and cross-examining the prosecution's, his enormous popularity and, above all, his ability to represent himself as the innocent victim of official tyranny—all this made it essential that, for the prosecution to succeed, the case should be fought out according to a carefully studied plan. In accepting the brief, therefore, Travers Humphreys insisted that he must be permitted to conduct the case on his own lines: he proposed to prove his points, one after another, without at any time giving Bottomley a favourable opportunity to make his habitual emotional appeals to the public's muddle-headed chivalry.

He began, therefore, by setting out the main facts of the prosecution in a long, crystal-clear, but studiously calm manner. He quoted the original prospectus of the Victory Bond Club, with its appeal to the "little man." Bottomley, he pointed out, had undertaken to act as the Club's honorary president, "free of any remuneration." Then the prospectus continued, in huge type, "It will thus

be seen that every penny subscribed to the Club will be invested without deduction of any kind in the Victory Bonds, all of which will be held by trustees appointed by the subscribers." Moreover, any subscriber who so wished could obtain the repayment of his money at any time, without any deduction for expenses. This, said Travers Humphreys, was obvious nonsense, because the expenses were bound to be enormous, though no allowance was made for them except that a "relatively small sum for actual out-of-pocket expenses" was to be deducted from the prize-money.

He went on to describe Bottomley's procedure when the subscriptions began to pour in. Bottomley opened a special account at the Covent Garden branch of the London County and Midland Bank for them, and between 17th June, 1919, when the Club was inaugurated, and 17th July he paid into it £35,000 of the subscribers' money. Then he transferred this money, less a thousand pounds, to a special Victory Bond Club account at the same bank. By 8th August, this account had risen to the figure of £467,000. A large proportion of the sum was soon paid over to the Treasury for the purchase of Victory Bonds to the nominal value of £500,000, leaving, however, a balance of £38,000. By the end of December, a further £26,000 had been subscribed but no more Victory Bonds were bought; so that Bottomley had £54,000 to account for, this being the difference between the money he had received in subscriptions and the amount he had paid to the Treasury for Victory Bonds. And he had, of course, no right to draw a penny from this sum for his own private use.

Travers Humphreys now described the adventures of the half-million Victory Bonds which had been bought for the Club. On 26th September, 1919, he said, they were at the bank, but by December 100,000 of them had disappeared. Then in March 1920, the scrip of the remaining 400,000 was exchanged into similar bonds of smaller denominations, all of which Bottomley withdrew from the bank by June. The prosecution had succeeded in tracing them to a French bank, where they were at first held as security for a private overdraft of Bottomley's. By February 1921, this overdraft had been paid off, and the bonds had vanished. The prospectus of the Club, Travers Humphreys recalled, had stated that all the bonds "will be held by trustees appointed by the

subscribers." Who were these trustees, he asked. What had they been doing all this time?

He turned back to examine what had happened to the £54,000 which remained over after the purchase of the half-million bonds from the Treasury. £5,000—the specific item mentioned in the indictment—had, he said, been transferred by Bottomley in August 1919, to a bank in Ostend to pay his horse-racing expenses in Belgium.

"Rubbish," cried Bottomley from his seat at the solicitors' table, but Humphreys assured the Court that he had Bottomley's own written authority for this statement. For, in order at that time to transfer money abroad a special permit had to be obtained under the Defence of the Realm Act and the applicant had to state his reasons for wishing to send money abroad. Bottomley had written then, on making his application, that he wished to send the £5,000 for the upkeep of his Belgian racing establishment. Receiving official permission, he had transferred this money to Ostend straight from the Victory Bond Club's account.

Travers Humphreys now told the Court that Bottomley had floated another project of a similar nature to the Victory Bond Club, a concern called the "Thrift Prize Bond Club," which also professed to combine the purchase of Government stocks with the paying out of prizes under a lottery scheme. Then he had floated a "Victory Bond Derby Sweepstake," again of the same nature. For some reason best known to himself, Bottomley had decided to merge these three accounts in one, and, said Humphreys, the Official Receiver now stated that it was impossible to separate them, because no proper books had been kept of the individual or the total transactions.

And Humphreys went on to enumerate some of the withdrawals which Bottomley had made from the huge fund made up of the balance of the Victory Bond Club's subscriptions, the Thrift Prize Bond Club's subscriptions, and the Victory Bond Derby Sweepstake subscriptions. £20,000 had been transferred by him to the bank account of the Northern Territories Syndicate, which was a relic of his early days as a promoter of Australian gold-mining companies but which he had admitted on oath in previous legal proceedings to have become a mere alias for himself.

Why had this sum been transferred there except for Bottomley's personal use, Humphreys asked. Further, £31,000 had been drawn from the subscriptions' account in cheques payable to Bottomley personally. Another £20,000 had gone to a company of which he was a director. The withdrawal of another £22,000 was marked in the account as "Exchange," but no trace could be found of the consideration for which it had been exchanged. £16,000 had gone in various minor ways, while a meagre £13,000 had been paid to the Club's printers.

Bottomley had also bought newspaper shares with some of this money, Humphreys said, as well as shares in Plumpton Racecourse and in a fountain-pen company. He had paid other sums of the subscribers' money to Messrs. Weatherby, the racecourse agents, who managed his accounts for entering horses in races and paying jockeys' fees. He had used £5,000 for the lease of an antique shop in London for a relation. More curious still, Humphreys pointed out, the Official Receiver had long held a claim against Bottomley for £5,000 in connection with the winding-up of one of his earlier companies, the Joint Stock Trust and Financial Corporation Limited: on 22nd May, 1920, Bottomley sent this sum to the Official Receiver, and on that very day he had drawn £6,000 from the Clubs' account, £5,000 of which had been traced directly to the Official Receiver's accounts.

When the Official Receiver took over the affairs of the Clubs in 1921, Humphreys said, they found that the assets had dwindled to a mere £23,000: yet claims had already been presented by some 85,000 disgruntled subscribers, amounting to £117,000, and more were coming in every day. This gave some idea of the vast amounts of money which had disappeared in the course of these transactions. Other investigations, he added, were still going on and other charges would certainly be brought against Bottomley in due course. "I am not prepared to open them to-day; but after evidence has been given on the charges now before the Court, I shall open the rest of the charges, so that Mr. Bottomley will have no grievance."

Travers Humphreys then began to call his witnesses, always with one set purpose in view—to prove his case without giving Bottomley an opportunity to raise emotional issues. Witness after

witness, many of them bank clerks, were called to say that such-and-such a sum had been deposited somewhere on such-and-such a day, and withdrawn on some other day: Bottomley could not derive any satisfaction from cross-examining witnesses of this kind, but he did his best whenever he thought he saw an opening.

Thus, when the man gave evidence from whom he had bought the shares in the Plumpton Racecourse, Bottomley said to him, "I think you have known me for some thirty years."

"Yes."

"Have you ever had any occasion to doubt my integrity and honour?"

"Never, Mr. Bottomley."

"You don't think, do you, that I paid for those Plumpton stocks with stolen money?"

"I wouldn't have sold them to you," said the virtuous witness, "if I had thought anything of the kind."

Bottomley sat down portentously, and a burst of applause came from his friends in the body of the court. But Travers Humphreys instantly pricked the bubble.

"Did you know where the money came from?" he asked the witness.

"No."

After another bank clerk had given weighty but dull evidence, the magistrate said that he would adjourn the hearing for a week. Bottomley objected to this. "But," said the magistrate, "I thought you wanted an adjournment."

"The mischief has been done that I hoped to avert," Bottomley replied sadly, and, while he did not explain what he meant, he gave the impression that he was thinking of the subscribers' interests.

When the hearing was resumed, unfriendly observers noted that a well-known friend of Bottomley was also in trouble. Ernest Terah Hooley was being tried at the Old Bailey for the Jubilee Cotton Mills fraud, for which he soon went to jail again.* It was a bad omen for Bottomley.

The case droned on, just as Travers Humphreys intended it

* This was when Hooley cracked the sardonic jokes which I have quoted in the previous reference to him in this book.

to do. Rarely did Bottomley have a chance to show his brazen metal, and there were few incidents to relieve the strain. True, on one occasion, Humphreys remarked to Bottomley that, "You're not so accustomed to criminal courts as I am," to which Bottomley replied cheerfully, "I'm getting very near it." The latter did manage, however, to introduce a certain confusion into the minds of the public who were following the case from the newspapers, by raising solemn technical objections to the admissibility of certain banking evidence. His objections were all over-ruled, but they provided him with an opportunity to protest against the wicked prejudice with which the proceedings were being conducted. And once Humphreys rose to say that he had discovered an error in his opening speech: he had said that the whole of the earliest Club account had been transferred to another account "Less a thousand pounds," whereas actually the whole sum had been thus transferred.

"I did Mr. Bottomley an injustice in suggesting that this thousand pounds had been used by him," he explained.

"Don't apologize!" said Bottomley. "There will be a lot of other corrections later." There never were.

At the third day's hearing, Bottomley saw an opening for his usual tactics. Cross-examining a bank clerk, he asked him, "Have you come across one withdrawal from this account to which you, as an expert, think there has been any attempt at concealment?"

"I must answer no to that," said the witness. He agreed also with Bottomley's suggestion that it would have been easy to effect the withdrawals in other forms which might have made discovery more difficult, and that "From the banking point of view I do not suggest any irregularities for a moment."

Bottomley instantly turned to the magistrate. "I hope you won't misunderstand me when I say that I am speaking to rather a larger public than this Court at this moment."

Both the magistrate and Travers Humphreys forbore to retort that there was no charge that Bottomley had failed to conduct his transactions in full accordance with "the banking point of view." It was the nature, not the method, of the transactions, which was the basis of the case against him.

Travers Humphreys then opened the other charges which had been foreshadowed in his opening speech. One of these related

to a missing item of £100,000, which could now be shown to have been drawn by Bottomley from the Clubs' money and used by him partly to purchase a Sunday evening newspaper, which had proved a failure (as did practically all Bottomley's business ventures), and partly for his private purposes. And another was concerned with his purchase of a former German submarine, the *Deutschland*, which had been sold by the Admiralty after the War to a firm of ship-breakers, and by them to our old friend Pemberton Billing of the "Black Book" case, and by him to one of Bottomley's companies, and by this company to Bottomley himself—for £15,000 which he had, as usual, drawn from the Clubs' funds. (It may again be noted that, as usual, this purchase, which Bottomley had made largely with a view to the profits to be obtained from sightseers, occasioned him a heavy loss. There never was a less skilful business-man, except when the business was fraud.) And yet another charge was brought against him, that he had used more of the subscribers' funds to pay off a charge on him for another of his bankrupt companies, and to meet a personal debt to a firm of stockbrokers.

Bottomley took an opportunity to remind the magistrate—and, of course, the chivalrous public outside—that he claimed on oath to have lost over £30,000 from his own pocket in respect of the Clubs, because he had honoured his original promise to pay off any subscribers in full who might demand repayment, even though the Stock Exchange price of Victory Bonds had dropped from 85 to 75. Travers Humphreys, as if accidentally, referred a few minutes later to the innumerable "ex-soldiers and servant girls" who had invested all their savings in the Clubs and neither had received nor could now hope to receive a farthing back. It was thrust and counter-thrust between the cleverest swindler in the country and the cleverest advocate.

After another long adjournment the procession of witnesses was resumed. A wine-merchant, for instance, testified to providing Bottomley with no fewer than 1,375 bottles of champagne, which the prosecution said had been paid for out of the Clubs' funds.

"You don't suggest that I drank all that myself, do you?" Bottomley asked him with a laugh.

"Certainly not," said the witness, echoing the laugh.

But as Bottomley had in late years swilled champagne from morning to night, there was really no cause for laughter.

During the cross-examination of another bank clerk, Bottomley ascertained that the manager of the Covent Garden branch of the bank, with whom he had done much business, was still in the firm's employ. Ever on the alert for a red-herring, he loudly wondered why the prosecution had not thought fit to call this manager as a witness. "I thought you'd like to know that he's available," he threw at Humphreys.

"Thanks so much," the latter replied. "I'm going to call him now." And he did, little to Bottomley's credit.

Later on, the prosecution called a group of poor clerks and servants and widows who had put their savings into the Clubs, and lost everything. Bottomley promised one of these that he would make a special note of her name and address and send it to the Official Receiver, of whom she said she had never heard. She thanked him prettily, and went away rejoicing at his generosity!

Cross-examining another of these witnesses, Bottomley suggested that, since the Home Secretary had stopped some of his letters in the post because they were supposed to infringe the Lottery Acts, the witness's cheque had very likely gone to the Home Office instead of to the Club. Travers Humphreys remarked drily that the actual cheque was in court, and "We'll soon see whether Mr. Bottomley or the Home Secretary endorsed it." He handed Bottomley the cheque, and the latter had to agree that it was endorsed by his own secretary.

He took an opportunity to play another familiar tune when he asked the detective who had brought him the summons, "Aren't you a detective whom I put on the track of German spies during the War?" The detective said he was not, and Bottomley commented, with a well assumed air of surprise, that the man he was thinking of was very like the witness in appearance.

At last the time came for him to open his defence. He announced that all he intended to do in the circumstances was to read a statement which he had brought with him and copies of which he had already handed to the reporters in court. It was a typical effort,

and in one form or another had won him sympathy and acquittal from many a previous tribunal.

He began by repudiating the utterly false charges brought against him, but, in a gentlemanly way, said he was grateful to Travers Humphreys for his "impartial and courteous attitude." The only complaint he had to make about the proceedings, he said, was that he had not been allowed to cross-examine various bank managers whose accounts had been presented to the Court in bulk by an official from their head office.

He referred to the £5,000 which had been transferred to his racing account in Ostend. It was shocking, he agreed. Very! But, after all, who had paid all the preliminary expenses of the formation of the Victory Bond Club? Who had returned vast sums to innumerable subscribers who wanted to withdraw their money from it? Was a mere trifle of £5,000 going to be grudged to a man who had paid out from his own pocket many times that amount for the subscribers' benefit? He was glad, he went on, that the prosecution had not included in the indictment the false charge of fraud which Bigland had brought against him at Shrewsbury in regard to the sweepstake draw. "That charge had disappeared, anyhow!" Solemnly he read a letter which he had received from a Sussex subscriber to the Club, in which the writer wished to set on record that, having written to him personally when the Official Receiver was unsympathetic, she had duly received all her money back. It was typical, he said, of so many letters he received every day from grateful subscribers.

In his view, Bottomley declaimed, both he and the subscribers to the Clubs had "been handicapped by having to fight the antiquated and, to my mind, stupid Lottery Laws of this country. Not that our country minded when it wanted our money during the War: but now that I am beginning to be a nuisance, they have dragged me here." Some of his methods, he admitted frankly, had been unorthodox, and doubtless the Chancery Judge would rap him over the knuckles for them in due course, but "People who, like me, tamper with the Lottery Laws, even for the purpose of helping their country, must expect to incur the censure of the Court of Chancery, in the same way that I have been censured by Mr. Travers Humphreys." He was ready to agree, he said,

that there might have been an element of looseness, carelessness, and even negligence, in his conduct of all these huge transactions, but negligence was not fraud. "I defy any one to detect an iota of evidence of fraudulent intent on my part in dealing with the Clubs." Then came the peroration, and while the old humbug declaimed it, tears rolled down his pendulous cheeks and dropped on his obese, champagne-sodden body.

"You must forgive me if I strike a note somewhat unusual in these courts. I have endeavoured to bear up under the stigma of these charges with a fortitude born of the knowledge that I have done no wrong, but there have been times when the tension has been almost too great. There are few experiences in a man's life more distressing, more agonizing, than to have to sit still, day after day, week after week, month after month, under the working of our legal system, listening to charges being hurled at him, which, if true, render him unfit for the society of honest folk. And the agony of that ordeal is intensified in the case of a public man who, for good or evil, commands a large following amongst the people and who, during the tragedy of Armageddon—and I speak from the depth of my soul—became conscious of a new awakening, and, putting all the sordid things of the past aside, consecrated his whole being to the service of his country and of the men who fought and fell in the cause.

"Week in and week out, by tongue and pen, I did my best to inspire our fighting heroes, and to inspirit their dependants. You are asked to believe that all the time I was scheming to rob them of their savings. I, who at my own cost, travelling the country night and day, was the King's chief recruiting agent. I, who stood by the boys in the trenches, who sat at their sides in the dressing-stations, doing my best to comfort them, who held their hands in the great hospitals as they passed into Eternity—scheming all the time to rob them and their families of their gold. Was there ever born of woman a creature made of such base stuff as to be capable of such a crime?

"If it be so, and I am he, when my turn comes to cross the barrier, may all the tortures of the damned be visited upon my soul. But the dear boys, whether they be sleeping or still with us, know that I have not betrayed them—and you shall scour the country

from east to west, from north to south, and you will never empanel a jury which will say that Horatio Bottomley could be guilty of so cruel a crime against both God and man."

It was a pretty good effort, and was received with applause from the public benches. It once again set forward a picture of Bottomley as the sort of man that the average Englishman thinks he is, or at least would like to be. It was certainly true to the picture of himself which Bottomley, by his speeches, his writings and his activities on the racecourse and elsewhere, had persistently set before the eyes of millions of his fellow-countrymen and victims. Honest, hearty, outspoken, bluff, contemptuous of formality and red-tape, fond of a gamble, not averse to a drink or two, no Puritan, no snob, patriotic, outwardly calm but sentimental at heart—it was a very appealing picture, but it failed completely to explain why almost the whole of the Clubs' funds had been diverted from their original purpose into Bottomley's bottomless pockets.

He was shrewd enough to know that it would not influence the Bow Street magistrate as a similar outburst had affected a Guildhall alderman in another of his cases some years before, and he cannot have been in the least surprised when Mr. Chester Jones formally committed him for trial. The main purpose of the speech was that, through the newspapers, it should reach the eyes of the people who were likely to be called on the jury for his forthcoming trial at the Old Bailey. Bottomley, among laymen, has never had an equal for his success in dealing with the ordinary juryman, and, however overwhelming he now knew Travers Humphreys's case against him to be and however well he realized that Humphreys was presenting that case more skilfully than any case had ever been presented against him before, Bottomley still believed that there was no jury in England who would dare to convict such a darling of a people. He left the police court, waving acknowledgements to the cheers of his hirelings, with a smile which blended modest self-pity and boundless faith in the future.

The smile was still there when the trial began at the Old Bailey before Mr. Justice Salter three weeks later. It was Empire Day, and Bottomley entered the court with a flourish, flaunting a large flag in his buttonhole which he had bought from a medical student outside who was selling flags to the accompaniment of a barrel-

organ mounted on a lorry. His claque cheered him as he took his seat at the solicitors' table to conduct his own defence. But the smile grew faint and soon vanished altogether when he realized that Travers Humphreys was going to fight him with the same tactics as at the police court. If anything, Humphreys had managed to eliminate some of the scanty opportunities which Bottomley had enjoyed before the magistrate of obscuring the main issue with sentimental irrelevancies. The proceedings were more business-like and duller than ever: just the same tedious evidence of clerks and managers and shopkeepers, who said, "Yes, Mr. Bottomley did this," and "Mr. Bottomley did that," and from which he could get no more satisfaction than an occasional admission that he had always treated them like a gentleman. These admissions did not worry Humphreys, who was not concerned to deny that Bottomley had honoured his private bills—with his dupes' money.

Bottomley put up a good show, however, when the time came to open his defence. It being no part of his programme to argue the facts, he wasted little time in discussing the prosecution's case. He remarked condescendingly that Travers Humphreys had carried out his task with fairness, though he had employed "one or two lamentable forensic tricks," which would have been frowned on by that greatest of all criminal Judges, Mr. Justice Hawkins, who held that a counsel for the prosecution should always seek to be a minister of justice. The truth of the matter, Bottomley confided to the court, was that Travers Humphreys wasn't up to his job! He then devoted himself to the task of gaining the jury's sympathy.

"You have got to find," he told them, patting the flag in his buttonhole, "that Horatio Bottomley, the editor, the Member of Parliament, the man who wrote and spoke throughout the War with the sole object of inspiring the troops and keeping up the morale of the country, the man who went out to the Front to do his best to cheer the lads—you have got to find that this man intended to steal those lads' money. God forbid!" He held himself responsible now as always, he went on, for the repayment of every penny of the money which had been subscribed to the Clubs, and "So long as I do that, there is no fraud." Apparently he overlooked

the fact that most of the money had vanished, and that his assumption of responsibility would never have tangible results.

After speaking for an hour and a half in this strain, he burst into the usual tears and prepared to face Humphreys's cross-examination. This went on for the rest of that day and for the whole of the next. Never did Humphreys allow him to get out of hand; instead, he took him up and down the whole sordid story which had come out through the witnesses and, by way of comment on Bottomley's references to his war work, plied him with awkward questions about the large sums he had demanded and received for his wartime speeches and articles. A rather woebegone Bottomley rose on the last day of the trial to repeat his time-honoured appeal to the jury not to condemn an innocent, well-meaning but perhaps slightly careless patriot who was being unjustly persecuted by the unimaginative, Puritanical and vengeful agents of a tyrannical bureaucracy. The old fire, however, flared up in his final dramatic cry: "I tell you, gentlemen, that the jury is not yet born who would convict Horatio Bottomley on such charges as these. It is unthinkable."

But Travers Humphreys had the last word. He asked the jury, quite simply, this question: "Do you believe the defendant on oath, when what he says is utterly uncorroborated?"

When Humphreys sat down, Bottomley rose again from the solicitors' table and, stalking to the dock, said to the Judge, "I will go now, my Lord, to the place where accused persons always go." The Judge naturally raised no objection and summed up, concisely enough. The jury retired and, in less than half an hour, had found Bottomley guilty on twenty-three counts in the indictment. As the Judge prepared to pass sentence, Bottomley made one final gesture.

He knew that Travers Humphreys had beaten him at last, and, during the retirement of the jury, he had prepared a speech which, ostensibly a plea for mitigation of sentence, was to have been his justification before the world.

"I was under the impression, my Lord," he said, "that it is sometimes asked of an accused person if he has anything to say before sentence is passed upon him."

"Not in cases of misdemeanour," the Judge replied, having no

intention of giving Bottomley another opportunity to make an appeal to the public he had so often misled.

Bottomley met without flinching this crowning proof of his martyrdom. "Had it been otherwise, my Lord," he cried, "I should have had something rather offensive to say about your summing-up."

Mr. Justice Salter sentenced him to seven years' imprisonment. The warders closed in on him in the dock for fear lest he sought to cheat justice as his predecessor, Whitaker Wright had done by swallowing poison concealed in his pockets. But Bottomley had neither the courage nor the cowardice for such a gesture. He looked round wearily at his aghast supporters, tried to smile at them, and then stumbled heavily down the steps of the dock and out of the world which had been his toy for so long.

Many people of all classes felt sympathy with Bottomley in his degradation: it seemed to them too that so long a term of imprisonment would be equivalent to a sentence of death for a man of his age and habits. Yet he came out of prison a few years later enormously improved in health. He had shaken off the effects of a lifetime of dissipation, he had lost two or three stones of superfluous fat, and he was all the better for it. On the other hand, except for the property which he had so cleverly bestowed on his dependants that they could not be deprived of it, he was utterly ruined, financially and morally. For some time he endeavoured to regain his former command over simple souls: his appeal, "I have paid the price, *but*——" was displayed from every hoarding: he found, however, that the old stock-in-trade was no longer attractive and, after one or two miserable journalistic adventures, he retired into obscurity, sinking so low that he even applied for an Old Age Pension. Bottomley was a man of exceptional talents, but when he met his master in the Courts his race was run.

CHAPTER SEVEN

THE name of Gerard Lee Bevan will be remembered by many people to their cost, for he was responsible for one of the worst financial scandals of the century, comparable with those of Whitaker Wright, Hooley, Bottomley and Hatry. The son of a former chairman of Barclay's Bank, he was a man of great ability and charm, and of much better education and social standing than any of these swindlers just named, but he appeared before Mr. Justice Avory at the Old Bailey in November 1922, to answer sixteen charges accusing him of publishing false statements of accounts in order to defraud persons who were entitled to rely on his good faith; of converting a vast amount of property belonging to the City Equitable Fire Insurance Company (referred to at the trial, as it will be here, as the "Fire Company") to his own use; and of obtaining money by false pretences. Travers Humphreys, who was usually to be found on the other side, was briefed to defend him.

Bevan had lived for some time previously in extraordinary luxury, which was to be explained by the position he held as senior partner in the prominent and old-established Stock Exchange firm of Ellis and Co.: he was the moving spirit of this firm and was rewarded with fifty-four per cent of its enormous profits. He was, in addition, a company director and a leading figure in the City and especially in the insurance world, which was enjoying the fruits of the post-War boom. One of the companies over which he presided was the Fire Company. This concern made large loans to Ellis and Co. when the latter became involved in too many industrial liabilities, and it was to cover up trace of these loans that Bevan in 1919 and the two following years prepared false balance sheets for the insurance company.

In 1920 he secured control of the First National Re-insurance Company and involved its assets also in the affairs of Ellis and Co. This support proving insufficient to shore up the crumbling

structure of the Stock Exchange firm, he next acquired and fleeced the Greater Britain Insurance Company and the City of London Insurance Company. This too was not enough, and Bevan, relying on his reputation and apparent assets, launched a scheme for the creation of a holding company and issued to the public a cunningly worded prospectus inviting subscriptions for what was to be named the City Equitable Associated Company. But rumours now began to circulate in the City that his affairs were going wrong: one of his new associates smelled a rat, and, to mix metaphors, the fat was in the fire. Even a personal advance of £100,000 from a co-director was inadequate to put things right, and, when inquiries were started into the financial position of his companies, Bevan fled abroad.

It has been said that, if he had not run away, the full extent of his offence might not have been exposed, because he would have stood trial before the experts had time to delve into all the intricate inter-working of his various companies. This seems to me an improbable theory. British accountants and British lawyers seem able as a rule to ascertain all they need as soon as they need it. What is perhaps more to the point in this connection, is that Bevan's habitual over-confidence in his own cleverness seems once again to have led him to disaster. For a whole four months he managed to escape detection, and must have had ample opportunity in that period to reach one of the few remaining countries which do not extradite fugitives to England. Instead, Bevan chose to remain in Vienna, where he was at last arrested by the Austrian police.

One may presume that Bevan's belief in his safety was due to his ingenious idea of providing himself with a French passport, in the name of M. Léon Vernier of Lille, with a photograph showing the holder as a man with black hair and a black beard. He knew that police all over the world were looking for a man with an English passport, the photograph of which would correspond with the official description of him as fair-haired and clean-shaven. It does not seem to have entered his calculations that the Viennese police, with their long and brilliant record as detectives, would sooner or later discover the trick he had played on them.

The case for the prosecution took over eight days to present, following seven days of preliminary proceedings. Many witnesses

were called, among them a host of directors, solicitors and accountants connected with the various Bevan concerns. While the prosecution sought to show that the defendant had misled and deceived his associates as well as the public, the defence suggested that some of these were at least as culpable as Bevan himself and that their deficiencies were the main cause of the companies' collapse. Travers Humphreys conducted his cross-examination of the Crown witnesses on this basis. Thus, for example, he drew the admission from a director in the Fire Company that he first learned that he was also a director of another Bevan company from reading his name on the printed prospectus—which he himself had signed!

"Didn't you read the prospectus before signing it?" Humphreys asked him.

"Only cursorily," was the naive reply. "There wasn't much time."

The truth about Bevan is that, like Hatry, he had a genius for figures and an infinite capacity for bluff: so that he conducted his affairs, and especially his directors' meetings, in a whirlwind of facts and figures which few of his colleagues dared to withstand. He was a masterful man and treated them like subordinates: some of them hesitated to question anything he said or to examine any suggestion he put forward, lest they might appear unworthy or unappreciative of their positions. Like parrots, they repeated what he told them; they accepted his guidance like faithful dogs; and they drew their directors' fees like—guinea-pigs.

Humphreys examined Bevan when he went into the box to give evidence on his own behalf. He elicited from Bevan that, despite the prosecution's accusations against him of great personal extravagance during his flight, he had not put aside a farthing from any of the transactions in which he had been involved in the previous years. He had taken to flight, he explained, not from any consciousness of guilt, but because ruin had come on him, because people were whispering tales against him, and because he was overworked and overstrung: just as some men, innocent men, take their lives in such circumstances, so he had fled abroad. During the eleven hours' examination, cross-examination and re-examination of Bevan, he sought to demonstrate that, whatever technical faults

might have occurred in his companies' affairs, he was not guilty of any intentional fraud. He was the head of very large business interests and had not time to go personally into details of them: these were left to men whom he had believed to be trustworthy and competent. Thus, his fellow-directors were equally responsible if the minutes of the Fire Company were incorrect, as the prosecution alleged; and, if any balance sheets were wrong, then the accountant who inserted the figures in them was to blame, and not Bevan, who was merely his client.

In regard to the alleged false prospectus, Bevan claimed that assets held on the actual date of the balance sheets mentioned in it were not necessarily identical with those held when the prospectus was published, and that intelligent subscribers would not assume that they were identical. Bevan summed up his whole defence of his business methods in a word when he explained a misleading balance sheet as "window dressing."

Mr. Justice Avory treated this excuse severely in his summing-up. Suppose, he said, a shopkeeper put attractive goods in his window at attractive prices and suppose when a customer paid over the money for them, the shopkeeper pocketed the money and remarked, "I'm sorry: I have taken your money but I cannot deliver the goods, because they are all covered by a bill or are only borrowed from somebody else." This was on all fours with Bevan's explanation of the balance sheet and the prospectus. Dealing with the flight abroad, the Judge was unimpressed by the theory that Bevan had lost his nerve under the strain of circumstances: instead, he referred unsympathetically to the "artful disguise and various stratagems" which Bevan had employed to evade arrest for four months.

Like every other part of this case, the summing-up was on a large scale and occupied four and a half hours; but the jury was absent for only an hour and a half before returning a verdict against Bevan on fifteen of the charges, the sixteenth—one of obtaining money by false pretences from a particular individual—having been withdrawn by the prosecution. The foreman went on: "We should like to add a rider that the offences were rendered possible owing to other directors not properly carrying out their duties."

Before passing sentence, the Judge asked the prosecution if it had any observations to make in regard to Bevan's flight abroad. Richard Muir replied by repeating that Bevan had lived there in great luxury, and added that, fleeing the country with a woman not his wife, he was living with another young woman when arrested. It is not clear whether Muir regarded this new revelation as further proof of Bevan's expensive way of life—after all, not all women are mercenary—or whether he introduced it in Puritanical horror at Bevan's wickedness. He went on to mention that the Director of Public Prosecutions had received innumerable complaints from poor persons who had been defrauded by Bevan's falsely worded prospectus.

Mr. Justice Avory then turned to Bevan, who throughout his ordeal had preserved a degree of debonair courage. "I have to consider," he said, "not only the financial ruin you have brought on individuals, but also the effect of your conduct in destroying the confidence of the public in insurance business, and the injury which you have done to the commercial reputation of this City of London. Your offence is further aggravated by your flight from this country, leaving your partners and your co-directors to bear the burden of the disgrace which you have brought on the firm of Ellis and Co. and on the insurance companies." Pointing out that other men convicted of similar offences had received far longer terms of imprisonment, the Judge proceeded to sentence Bevan to penal servitude for seven years.

The next big case in which Travers Humphreys was concerned was a trial of murder.

Late on the evening of 3rd October, 1922, a man and woman were walking along the demure suburban roads of Ilford, on their way home from a London theatre. The man, Percy Thompson, was a shipping clerk of thirty-two, earning about six pounds a week. His wife, Edith Thompson, was twenty-eight and earned the same income as saleswoman for a firm of milliners in the City. They had been married for seven years and had no children. Suddenly a man jumped out of the shadows, swung Thompson round and asked him, "Why don't you get a divorce from your wife, you cad?" To this Thompson replied that he had no intention of so doing, whereupon the other stabbed him with the knife

and killed him with a thrust in the back of the neck. Mrs. Thompson shrieked, "Oh, don't! Oh, don't!" and, as the aggressor ran away, she helped her husband along until he collapsed, dying, against the wall. Then she rushed down the street, calling to an approaching party of people to help her husband and fetch a doctor.

The doctor came and, in the darkness, assumed that the blood on the dead man's clothes and on the pavement was due to a hæmorrhage. But at the police station the wounds were discovered and Mrs. Thompson was questioned. She said that a strange man flew past her and attacked her husband; she did not mention the words that passed between the two men, nor did she suggest that she knew the assailant. The police, mystified but unsuspicious of her, questioned the dead man's brother, who told them that a young ship's steward named Frederick Bywaters had at a previous date made trouble between husband and wife. Acting on this hint Superintendent Wensley, who had taken charge of the case, naturally sent out detectives to try to find Bywaters, if he happened to be in London. He was found the same afternoon at the house of Mrs. Thompson's parents, detained and taken to Ilford police station.

He admitted that he had been within a mile or two of the place of the murder on the previous evening, but denied any closer connection with it. Bloodstains were found on his coat; and in a suit-case at his mother's house the police found some fervent letters to him from Mrs. Thompson. She was asked to return to the police station to answer further questions and, though she confessed to having been on friendly terms with Bywaters, she would not admit that she had seen him on the day of the murder—though the police knew, by inquiries at her business, that she had tea with him in the City that afternoon—or that he was in any way concerned in her husband's death. Neither she nor Bywaters knew that the other was at the police station until there happened one of those accidents which are so liable to happen when the police are puzzled: she was led past a window through which she could see Bywaters sitting under arrest. Taken by surprise, she cried, "Oh, God, why did he do it? I didn't want him to do it!" She was at once cautioned and questioned by her attendants, and confessed to them that Bywaters was her husband's murderer.

Bywaters then admitted his guilt but said that Mrs. Thompson knew nothing of his intention to confront them on the fatal evening. Knowing, he said, that they would come back this way from the station, he waited for them near their home and asked Thompson to separate from his wife. When Thompson refused, "I said, 'You'll have to.' We struggled and I took my knife from my pocket, and we fought. He got the worst of it. Mrs. Thompson must have been spellbound, for I saw nothing of her during the fight. . . . The reason I fought with Thompson was because he never acted like a man to his wife. He always seemed several degrees lower than a snake. I loved her, and I could not go on seeing her lead that life. But I didn't intend to kill him; I meant only to injure him. I gave him an opportunity of standing up to me like a man, but he wouldn't."

The case now appeared to be perfectly simple: here was a confession which explained the crime, though naturally it did not extenuate it. Bywaters's reason for attacking Thompson with a knife was not one which any Court could admit to be justifiable, while the sneer that Thompson did not "stand up to me like a man" came badly from one who admitted drawing a knife to attack an unarmed victim. But the police were not yet satisfied: they had now found in Bywaters's bag in his ship a number of letters from Mrs. Thompson which they read as showing that she not only desired him to murder her husband but had herself at various times tried to kill Thompson with poisons and powdered glass. She was, therefore, indicted jointly with Bywaters on the charge of murdering her husband.

Travers Humphreys was entrusted with the prosecution, but at the trial at the Old Bailey, the Solicitor-General, Mr. (now Sir) Thomas Inskip, appeared to lead him. The case against Bywaters need not be elaborated here: the most that could be urged in his defence was that he was moved by intense passion and indignation to attack Thompson but that he had not intended to kill him. Even, however, if he intended only to wound him, the fact that Thompson died of the wounds is sufficient in law to make Bywaters guilty of murder. It was a very different matter with Mrs. Thompson. The supposition of her guilt rested almost entirely on the letters which she had written to Bywaters, and many extracts

from these were read out in court by Humphreys. Mr. Filson Young, in his monograph on the trial,* speaks of Humphreys as "a man whose mind seems to me the hardest, brightest and most exact of those engaged in criminal work for the Treasury," and he remarks that "It was a curious occupation for him to be reading aloud these passionate utterances in the presence of the woman who wrote them; it is to his credit that, much as he disliked the task, his reading of them was by no means unsympathetic."

They were certainly amazing letters. They contained phrases which seemed to point, time and again, to an understanding between the writer and her lover that her husband should be put out of the way. Some of the phrases, it is true, might be explained, as the defence endeavoured to explain them, as references to a suicide-pact between Mrs. Thompson and Bywaters; while other paragraphs quoted by the prosecution point perhaps to Mrs. Thompson's desire to prevent the birth of an unwanted child. But there are some passages which cannot be explained away by either of these hypotheses. For example, in one letter dated six months before the murder, she wrote to Bywaters, who received it at Bombay:

He was telling his mother, etc., the circumstances of my "Sunday morning escapade," and he puts great stress on the fact of the tea tasting bitter, "as if something had been put in it," he says. Now I think whatever else I try it in again will still taste bitter—he will recognize it and be more suspicious still and, if the quantity is still not successful, it will injure any chance I may have of trying when you come home. Do you understand?

I thought a lot about what you said of ——. Darlint, don't trust him. I don't mean, don't tell him anything, because I know you never would. What I mean is, don't let him be suspicious of you regarding that; because, if we were successful in the action, darlint, circumstances may afterwards make us want many friends or helpers and we must have no enemies or even people who know a little too much. Remember the saying, "A little knowledge is a dangerous thing." Darlint, we'll have no one to help us in the world now and we mustn't make enemies unnecessarily.

He says, to his people, he fought and fought with himself to keep conscious. "I'll never die, except naturally; I'm like a cat

* *Trial of Frederick Bywaters and Edith Thompson.* Edited by Filson Young, 1923.

with nine lives," he said, and detailed to them an occasion when he was young and nearly suffocated by gas fumes. I wish we had not got electric light; it would be easy.

I'm going to try the glass again occasionally, when it is safe. I've got an electric light globe this time.

It is hardly surprising that this page of her letter was headed, "Don't keep this piece." And a month later she wrote a letter to Bywaters at Port Said, certain paragraphs of which, taken in conjunction with the foregoing, seem inexplicable on any other hypothesis except the murderous intent read into them by the prosecution:

I was buoyed up with the hope of the "light bulb" and I used a lot—big pieces too—not powdered—and it has no effect—I quite expected to be able to send that cable—but no—nothing has happened from it and now your letter tells me about the bitter taste again. Oh, darlint, I do feel so down and unhappy.

Wouldn't the stuff make small pills coated together with soap and dipped in liquorice powder—like Beechams—try while you're away. Our Boy [her husband?] had to have his thumb operated on because he had a piece of glass in it: that's what made me try that method again—but I suppose, as you say, he is not normal. No, I haven't forgotten the key, I told you before.

Darlint, "two heads are better than one" is such a true saying. You tell me not to leave finger-marks on the box—do you know I did not think of the box but I did think of the glass or cup whatever was used. I wish, I wish, oh, I wish I could do something.

She also sent him cuttings from newspapers with such headings as "Poisoned Chocolates," "The Poisoned Curate," "Chicken Broth Death," and, on the other hand, "An Ideal Love Letter," "July Marriages," "The Ideal Dance Partner," and "Woman the Consoler." Mrs. Thompson seems to have been exactly the sort of woman who responds to the headlines and skilful "Feature articles" in a section of the popular press.

The cumulative effect of the letters, the prosecution claimed, was that she had been attempting to poison her husband for some time, by prior arrangement with Bywaters. The answer of the defence to this was one of the strangest features of a very strange case: it denied that Mrs. Thompson wrote the truth in these

letters, and suggested that all her talk about powdered glass and bitter poisons and finger-prints was merely the product of an excited imagination. She lived, it was argued, in a dream-world of tawdry romance and newspaper sensation and, modelling herself on her favourite heroines of fiction, sought to present herself to her lover, who was eight years younger than herself, as a woman who would dare all for love. The defence supported this plea by calling witnesses who categorically denied various lurid incidents in the letters in which she said they had figured. Dr. Bernard Spilsbury, who had conducted a post-mortem on her husband's body, agreed that there was no sign of any poison or powdered glass having been administered to him, though, he pointed out, it was not inevitable that such signs would be found in the body a few months afterwards.

It thus remained open to question whether in fact Mrs. Thompson attempted her husband's life in the months previous to his death and whether she conspired at that time with Bywaters to murder him. But, though these charges appeared in the indictment, she was not tried on them: she was tried for the specific offence of murdering her husband on the night of 3rd October, 1922. The Judge, Mr. Justice Shearman, put the matter clearly when he told the jury in his summing up, "If you find Bywaters guilty of murder, then you have got to consider these questions. Was this woman an active party to it? Did she direct him to go there? Did she know he was coming? And are you satisfied that she was directly implicated in it?" There was, the Judge pointed out, no certain evidence one way or the other: Mrs. Thompson claimed to be ignorant that Bywaters was going to waylay and stab her husband, but, on the other hand, all her letters went to suggest that she had long been conspiring with Bywaters to kill Thompson.

The jury, after an absence of two hours, brought in a verdict of guilty against both prisoners. Bywaters at once repeated that Mrs. Thompson was innocent of the murder, and she said the same thing. At the appeal a fortnight later it was urged on her behalf that there was insufficient evidence to show a common purpose between her and Bywaters at the actual time of the commission of the murder, that the letters were unfairly used against her at the trial, and that the Judge's summing-up was at fault.

The Court of Criminal Appeal, however, decided that the letters were rightly admitted as evidence and that the Judge's summing-up was entirely just and fair to Mrs. Thompson. As for the first and chief point in the appeal, the Lord Chief Justice, Lord Hewart, said, "There is no direct evidence that Bywaters was there [on the scene of the murder] at her invitation, or upon information given by her. That is quite true. But in view of all the rest of the evidence, both as to what happened before the commission of those acts and as to what happened immediately after the commission of those acts, it was obviously open to the jury to infer that what was done was done as the result of preconcerted arrangement." The appeal must therefore be dismissed.

It was thought by large sections of the public that the Home Secretary would now reprieve Mrs. Thompson, but he took no action. Possibly the recent indignation caused by his reprieve of Ronald True—whose medical history as a lunatic was, by the way, little known to the people who protested against his reprieve—had hardened the hearts of his advisers: otherwise, it is a little difficult to see why the full penalty was exacted from a prisoner whose guilt was very far from being established with certainty. Possibly Mrs. Thompson was guilty of planning the actual murder: but it seems equally possible that she was not, to use the Judge's words, "directly implicated" in the crime of 3rd October. As a rule one may dismiss such speculations with the statement that the jury had ample opportunity to weigh the evidence, to observe the demeanour of the prisoners and witnesses, and to decide questions of guilt and innocence beyond reasonable doubt. But juries sometimes err, and it is hard to imagine a case in which error was easier than this. The effect of Mrs. Thompson's wicked or merely foolish letters must have been almost decisive, although they did not provide any overwhelming evidence that she pre-arranged the murder.

Is it likely that she would have chosen a time and place for Bywaters to murder her husband when she was with him? If she really wanted Bywaters to stab him, why not select an occasion when Thompson was alone? It would, of course, be quite another matter if she had been tried upon the other counts in the indictment against her, such as, for example, that "on the 10th day of February, 1922, and on divers days between that day and the 1st day of

October, 1922 . . . she did solicit and endeavour to persuade and did propose to F. E. F. Bywaters to murder Percy Thompson." Her guilt or innocence in this respect would properly have rested on the jury's interpretation of her mood when she wrote the letters, and nobody would then be entitled to dispute their verdict. But she was not tried on this issue.

These doubts are confirmed by the curious circumstance that the detective who was in charge of the case, Superintendent Wensley, has gone astray in his references to her in a subsequently published account of the case. "Imagine that grim struggle," he writes, "with the woman standing by, raising no voice to cry for help. . . . Not until the murderer had done his work and made good his escape did she call assistance for her dying husband." Yet evidence was given at the trial, by a witness whose veracity was never doubted, that he heard Mrs. Thompson cry "in a most piteous manner, 'Oh, don't! Oh, don't!' " This may not technically be a cry for help, but does most emphatically suggest that Mrs. Thompson was horrified at what was being done. It may, on the other hand, be true that, though she anticipated the murder at that time and place, she lost her nerve during its actual commission. But is not her cry much more consistent with the defence theory that she did not anticipate it, and was genuinely horrified when she saw Bywaters leap out and stab her husband?

Twelve years later, Travers Humphreys was concerned with another trial in which a woman and her lover, again a younger person than herself, were charged with the murder of her husband: Mrs. Alma Rattenbury and George Stoner were tried before him in connection with the death of Francis Rattenbury. It is claimed by observers of the Rattenbury trial that the memory of the Thompson-Bywaters case was present in everybody's mind and that persistent doubts about the justice of Mrs. Thompson's execution went a long way towards securing Mrs. Rattenbury's acquittal. This is certainly an over-statement, for, as we shall see in a later chapter, there were not sufficient grounds for any other decision in regard to Mrs. Rattenbury's guilt. Still, it may well be that both the lawyers and the jury present at the later trial were anxious to avoid any suspicion of a repetition of the Mrs. Thompson affair. The public certainly was.

There was one rogue whom Travers Humphreys prosecuted no fewer than three times in this period, and, while none of the cases attracted much public interest, the frequency with which the man appeared in the courts, and the odd combination of offences with which he was charged, perhaps justify mention of him here as an Oriental ingredient in Humphreys's career.

Martin Sebastian Saldanha's first encounter with Humphreys was at Bow Street police court, where he was charged under the Perjury Act of 1911 with inciting and assisting his wife's niece, Gladys Jones, to make a false statement in the register of births. Saldanha was a man of Portuguese-Indian extraction, who had come to England as a young man and been called to the Bar at the Inner Temple in 1905. His age was now somewhere between forty-five and fifty-five; he described himself as a barrister, and he gave an address in Pump Court, in the Temple. Travers Humphreys told the magistrate, Sir John Dickinson, that Saldanha, a widower with several children, had for some years been living with his late wife's niece, Miss Jones, who had given birth to a child in Hastings three years previously, when she was only seventeen, and more recently to twins in Stoke Newington. Saldanha was said to be the father on each occasion, but, when Miss Jones went to register the births, he told her to say that she was a Mrs. Martin and that the father of the children was a certain Lieutenant Martin, an officer in a Portuguese regiment and formerly resident in Canada. Saldanha's purpose, it was suggested, was to avoid both the financial liability for the children and the social stigma of having seduced a young girl. While Miss Jones might have been proceeded against for the perjury, the prosecution considered Saldanha the more guilty party.

Saldanha visited the nursing-home after Miss Jones's second confinement and told the matron that her husband, Lieutenant Martin, was a brave Portuguese soldier who had died fighting for his country six months previously. Saldanha then benevolently arranged for the adoption of the children, acting, he explained, as an old friend of the late Lieutenant Martin and as the uncle by marriage of Mrs. Martin. The twins died; but in default of further payments to the foster-parents, the other child was eventually handed over to the Cheltenham Poor Law Guardians, who

wrote to Saldanha for money. He disclaimed all liability, and, as if to settle the matter, he told them that he was not the Martin Sebastian Saldanha whom they were seeking, but the latter's cousin, John Salvador Saldanha: Martin Sebastian Saldanha, he told them, had left England some months before. He also informed the Guardians that the father of the child was the legendary Lieutenant Martin, who this time had acquired an Irish father and a Portuguese mother and had died while serving in the French Foreign Legion. When the Guardians asked why the valiant Lieutenant's widow had not received a pension, Saldanha assured them that he had approached the French Government on her behalf but had been unsuccessful, the French explaining to him that, since the Foreign Legion was composed of all sorts of international "cracksmen," no pensions were paid in the event of their death. Having thus, as Humphreys pointed out, libelled the French Foreign Legion, Saldanha proceeded to libel himself: he had a letter sent to the Cheltenham Guardians which said that he was physically incapable of being the father of the child.

After his niece by marriage, Miss Jones, had given evidence against him, he was committed to the Old Bailey, where he was tried a few weeks later. In reply to Marshall Hall, who appeared for his defence, Saldanha said he was born in Bangalore, South India, and that both his parents were noble Portuguese—an answer which seemed to amuse Anglo-Indians in court. He repeated his denial that he was the father of Miss Jones's children, and assured the Court that he had not only seen documentary evidence of her marriage to Lieutenant Martin but had even met Martin in the flesh in Spain eight years previously. The jury did not accept his story, and Mr. Justice Shearman sentenced him to six months' imprisonment. The Benchers of the Inner Temple, among whom Travers Humphreys was soon to be numbered, quickly disbarred Saldanha, removing his name from its rolls.

It will be more convenient to describe at once his later encounters with Travers Humphreys instead of letting them take their strict chronological place in this book. There is a cumulative charm about Saldanha's rascality which might be lessened by dispersal over several chapters. His next appearance in court was in the following year, 1921, when he was charged with forging an

affidavit and uttering it at the Brentford County Court. It appeared that a bankruptcy notice had been served on him and that he had asked the County Court to set it aside, on the ground that he was an honorary attaché of the Spanish Embassy in London and, therefore, enjoyed special extra-territorial privileges. In support of this claim he produced an affidavit, purporting to be signed by the secretary of the Embassy, Senor Eduardo de Pena. The latter gentleman, however, now gave evidence that he did not know Saldanha and had never signed or sworn an affidavit that Saldanha was attached to the Embassy.

Saldanha's defence was the usual mixture of cunning and simplicity. He seriously argued that he could not possibly have forged the affidavit, because it reached him through the post. Secondly, he said that he had interviewed the King of Spain on a recent visit to London and the King had verbally promised to make him an honorary attaché of the Embassy. This time Saldanha went to jail for fifteen months.

Humphreys prosecuted him again in 1925 when he was charged before Sir Henry Dickens, the Common Serjeant, with uttering false cheques and attempting to obtain money from Lord FitzAlan. Humphreys explained that an individual signing himself "C. Satijian" had been interesting himself in Saldanha's affairs. For one thing, "C. Satijian" had been drawing cheques for Saldanha's benefit, though there were no funds in the bank to recompense the people who had cashed the cheques. For another thing, "C. Satijian" had sent glowing testimonials about Saldanha to landlords with whom the latter wished to do business. And again, "C. Satijian" had written to Lord FitzAlan eulogizing Saldanha and suggesting that his lordship should advance Saldanha five thousand pounds. It was the prosecution's contention, said Humphreys, that Saldanha was himself "C. Satijian," and had written the cheques, the references, and the letter. Saldanha assured the Court that "C. Satijian" was no myth but the jury took the line that he was a creature of the same world as the famous Canadian-Portuguese-French-Irish Lieutenant Martin and Saldanha went to jail for another fifteen months.

This was not the end of his adventures, though he never again encountered Travers Humphreys professionally. In 1931 he

again appeared at the Old Bailey, and this time Mr. Percival Clarke prosecuted him. Saldanha, it seemed, had been giving evidence under a false name in a High Court action, and in cross-examination had disclaimed all knowledge of, or connection with Martin Sebastian Saldanha. He was duly charged with perjury. His defence was characteristic. He said that he had taken the oath on the first day of the hearing in the High Court and had told the truth on that day. On the second day, however, other witnesses were called before he returned to the box for cross-examination, and he had not been sworn again; so he had supposed that he was no longer bound by his oath of the previous day, and for this reason, he had thought fit to use certain "mental reservations" in his answers to questions.

After the jury found him guilty, a police inspector told the Court that Saldanha was an Indian of Goanese parentage, gave an account of his previous convictions, and added that he had recently been warned by the police for writing threatening letters to the Queen of Spain, the Lord Chamberlain and the Governor of Winchester jail, and for claiming relationship with the Spanish Royal house. Further, said the inspector, he was regarded by Scotland Yard as "a religious hypocrite, an unscrupulous scoundrel and a very bad perjurer." Sir Henry Dickens sent him to jail for three years, and so we take leave of Martin Sebastian Saldanha, *alias* Lieutenant Martin of the Portuguese Army and the French Foreign Legion, *alias* C. Satijian, self-appointed attaché of the Spanish Embassy, self-styled cousin of the King of Spain, and an altogether fantastic rogue.

A less exotic but hardly less remarkable set of circumstances was disclosed at a trial in which Travers Humphreys was concerned in March 1922, at the Old Bailey. This was the trial of Captain Owen Peel and his wife, Mrs. Violet Margaret Florence Peel, a daughter of Lady Jardine, on a charge of fraud. Much more public interest was aroused, because of the prominent social position of the defendants and their families. They were charged with endeavouring to obtain money from bookmakers by fraud. As is well known, starting price bookmakers make arrangements with their clients by which telegraphed bets on horses are accepted up to certain agreed amounts, even if the telegrams reach their

offices after the race has been run: but it is, of course, an essential part of the bargain that the telegrams must be handed in to the post office before the start of the race. Captain and Mrs. Peel were accused of an ingenious trick by which they were said to have ascertained the name of the winner of the Duke of York's Handicap (run at Kempton Park on 8th October, 1921) and inserted it in certain telegrams to bookmakers, while nevertheless making it appear that these bets had been dispatched before the beginning of the race.

It was done in this way. The Peels took a large furnished house in the little Midland village of Avon Bassett, and began to live there in considerable style. The village shop was also the local post office and telegraph office: all its business was conducted by the elderly owner and by a girl assistant aged sixteen. On the day of the offence, which was a Saturday, the girl went off in the afternoon to attend a sale of work at the local vicarage. The Handicap was due to start at 2.50, and a very few minutes before this time Captain and Mrs. Peel entered the shop. Mrs. Peel told the shopkeeper that she expected a telephone call at any moment, while her husband handed him a telegram for dispatch, the contents of which had nothing to do with the charge. At 2.52 (all these times are important) the call came from London, and Mrs. Peel spoke to somebody there. While she was speaking, her husband watched the shopkeeper marking the telegram with the time at which it had been handed in: when the man put this as "2.50," Peel suggested to him that "2.45" would be more accurate, and the change was duly made. Peel then paid a bill and hung about the shop, waiting for his wife, who was still speaking on the telephone. The telegram incidentally, could not be sent off because it had to go by telephone to Banbury, and Mrs. Peel was using the only line out of the post office.

Now, it is interesting to note that, contrary to custom, the start of the race at Kempton Park was ten minutes late. The horses did not start running until three o'clock: the winner, a horse called Paragon, passed the winning-post in a few seconds over two minutes, and this result was telephoned to London and known there by three minutes past three.

At three or four minutes past three Mrs. Peel, still on the

telephone in the village shop, called her husband, who went over and stood beside her for a few moments with his back to the shopkeeper. Then he went to the door as if to leave but, turning, said to the shopkeeper, "Oh, I'd almost forgotten these!" and produced from his pocket no fewer than forty-five telegrams addressed to starting-price bookmakers all over the country, backing Paragon to win. After he had handed these to the shopkeeper for dispatch, his wife, who had now ended her protracted conversation on the telephone, left the post office and went home. Captain Peel remained behind. The shopkeeper, confronted with all these telegrams, ran round to the vicarage and fetched his young assistant to deal with them. She inserted the time of "2.45" on all of them, under the impression that they had all been handed in simultaneously with the first one. Then she went to the telephone and began to transmit them to Banbury. After the telegraph official in that town had taken down two telegrams timed 2.45 —it was now nearly half-past three—he asked the girl if this timing was correct. Peel assured the girl that it was, she told Banbury so, and Peel stayed in the shop until the last of the forty-five telegrams reached Banbury at about four o'clock.

The bookmakers naturally did not receive them until some time later, and were shocked at receiving what appeared to be genuine winning bets so long after the race was over. Most of them sent Captain Peel his winnings, but one firm was suspicious and asked the Post Office to make inquiries. It may be mentioned that the general outline of the fraud is not rare in the racing world, though Captain Peel's method was a refinement of the usual trick. The Post Office learned from Banbury that the telegrams had been held up at Avon Bassett because the only telephone line was engaged at the crucial time by Mrs. Peel and her garrulous caller: their conversation, it was discovered, had lasted for no fewer than thirteen minutes, a most unusual thing to happen on a Saturday afternoon. Then the Post Office asked the village shopkeeper for his account, and began to draw conclusions about what had really happened.

It was suggested, and this was the basis of the charge against Captain and Mrs. Peel, that the whole business in the village shop was pre-arranged. Peel would hand in the first telegram just before

his wife's telephone call was put through from London, and get it timed before the advertised start of the race. Then her caller in London was to tell her the name of the winner, and Peel, inserting this in already prepared telegraph forms, would hand the shopkeeper the sheaf of telegrams and persuade him to mark them with the same time as the first one, though in actual fact they were handed in a minute or so after the race was over. It was doubtless very unfortunate for the Peels that the start of the race happened to be delayed ten minutes, and that the shopkeeper's assistant was away at the vicarage; otherwise, the telephone conversation with London would have been very short, and the telegrams would have reached Banbury and the bookmakers without unusual delay.

When the case came on at the Old Bailey before Mr. Justice Darling, Captain Peel pleaded guilty, but Mrs. Peel pleaded not guilty. She was, therefore, placed in the dock alone. It has been said that Peel would not have pleaded guilty except on the understanding that the charge against his wife would then be withdrawn, but there is, of course, no way of proving or disproving this: in any case, the responsibility rested not with Travers Humphreys but with Sir Charles Gill, who had been brought in to lead him for the prosecution.

The proceedings opened sensationally with a long legal argument as to whether Mrs. Peel could be tried for the offence, in view of the legal doctrine that a wife who commits a criminal act (except treason or murder) in conjunction with her husband is presumed, in general, to be acting under his coercion. Thus, Richard Muir submitted for Mrs. Peel, she was entitled to an acquittal unless it could be shown that she had instigated or been the active mover in the offence, or that her husband was incapable of coercing her through being a cripple or bedridden—none of which exceptions to the normal rule applied in this case. Moreover Muir pointed out, it was evident that several of the chief moves in the fraud had been made by Captain Peel in the village shop in the absence of his wife, who left it long before he did. Counsel for the prosecution asked the Judge for his directions about the proper course for them to pursue, and Mr. Justice Darling ruled that the case against Mrs. Peel should proceed.

The main facts of the fraud were then set out, but Mrs. Peel, giving evidence on her own behalf, declared that her long telephone conversation with London had nothing to do with racing and was solely concerned with a Stock Exchange transaction. The prosecution, by the way, did not think fit to call the man with whom she had spoken.

Mr. Justice Darling began his summing-up by saying that there was not a great deal of evidence against Mrs. Peel, and he would have liked the jury to decide the question of her guilt. But she and Captain Peel were husband and wife, and the law of England had for nearly thirteen centuries maintained the principle that a wife who commits a crime in the presence of her husband is, except in certain rare cases, presumed to act under his compulsion; and this principle applied to the present episode. The Judge remarked that he supposed the principle was based on the assumption that women could not contradict their husbands, which seemed to be contrary to present-day fact. However, such was the law and he must direct the jury to return a verdict of not guilty.*

As Mrs. Peel left the dock, her husband took her place. Several eminent military officers gave evidence on his behalf, and Sir Henry Curtis-Bennett presented a most ingenious appeal for him. Peel, he said, had pleaded guilty only to ante-dating the telegrams, but not to knowing the result of the race when he handed them in. (The significance of this was, of course, that had the telegrams not been timed before the advertised start of the race, the bets contained in them would have been void, win or lose: Sir Henry was suggesting that Peel had genuinely "almost forgotten" to send them, and was so anxious to ensure that his bets should be valid that he persuaded the shopkeeper to put an earlier time on the forms.) Sir Henry also referred to the strain which Peel had undergone in the four years of the War—he had joined up at the outbreak at the age of nineteen—and to the social punishment which he had already suffered in connection with the case.

Mr. Justice Darling did not accept the defence's explanation of Captain Peel's actions. He had, the Judge said, taken advantage of the simplicity of the old shopkeeper and the girl at the post office;

* The law has, of course, been altered in this respect by the Criminal Justice Act of 1925, though coercion, if proved, is still a valid defence.

also, he had received a sum of over two thousand pounds from bookmakers as a result of these bets and kept it, though the money had been returned by his father when the inquiries were made. Taking everything into consideration and realizing that the prisoner had now set himself outside the pale of honest men's society, the Judge said that he would sentence Peel to twelve months' imprisonment in the second division, and added that, despite the law, he did not at all believe, from the manner in which she had given evidence and from the facts of the case, that Mrs. Peel had been coerced by her husband.

We shall find a reference to this legal principle—which *The Times*, on the day after the Peel case, happily described as a "remnant not of chivalry but of serfdom"—on a later page of this book.

In the following year Travers Humphreys conducted the defence of a man charged with no less serious a charge than the attempted poisoning of three senior Scotland Yard officials. He was a certain W. F. Tatham, a gardener, and he was accused of sending poisoned chocolates to General Sir William Horwood, the head of the Metropolitan Police, and poisoned cakes to Major Elliott and Mr. Trevor Bigham, the Assistant Commissioners at the Yard.

Richard Muir, opening the prosecution against Humphreys's client, said that the crucial question in the case would be the state of the prisoner's mind. When a police-inspector went with some other detectives to make inquiries at the house where Tatham lived with his parents, the prisoner rushed downstairs, brandishing a stick which he called, incorrectly, a sword-stick. Tatham, who seemed to be in a state of great excitement, then cried, "I've written to the military at Aldershot about you chaps, and I'll have you all arrested to-morrow." To calm him, the inspector said, "But you've never seen me before," to which Tatham, still brandishing the stick, replied, "I'll charge you with attempting to murder me. I've stood enough from your people. You tried to murder me at Farnham. I've written to the Commissioners about you." And then he solemnly asked the inspector and his colleagues who they were and what they wanted.

After this he again sought to attack them with the stick, but

assisted by his mother, they got him under control and searched the house, where they found among other things a chocolate box, three almost empty tins of weed-killer, and, in his pocket-book, the partially erased name of Sir William Horwood. When he was shown the addresses on the parcels that had been sent to Scotland Yard, he said, "Oh yes, I wrote all those, but it was an accident. I wouldn't hurt your Commissioner. I sent the things to him so that he could have them analysed. I was sorry when I saw in the papers that he'd been poisoned by them, and I've had no real rest since. No, I wouldn't harm him for anything." The policeman agreed in evidence that Tatham looked very ill when they arrested him.

Sir William Horwood testified that 7th November, the day when the chocolates reached him by post at Scotland Yard, was his birthday and that he had expected his daughter to send him a box of chocolates as a birthday gift. Finding such a box in his mail, he assumed that it came from her, unwrapped it and put it in a drawer of his desk; after lunch, he ate one of the chocolates and gave another to his secretary. Later in the day another box of chocolates arrived from his daughter, but this fact roused no suspicion in his mind. Soon, however, he felt ill and called his secretary to tell her to cancel his engagements; she then showed him the inside of the chocolate which he had given her, and pointed out that it had been tampered with. Next day he was worse and had to go into hospital, where he stayed for a fortnight. The fact was reported in the papers and, before long, a Seidlitz powder was posted to him; but this turned out not to be poisoned.

Major Elliott, his immediate subordinate, also gave evidence. The day after Sir William was taken ill, he said, he found a parcel on his desk, wrapped in green paper and addressed jointly to him and his colleague, Mr. Bigham. Inside it were four chocolate éclairs and a card bearing the words, "A good lunch and hearty appetite, from Molly." This card was identical with some found in Tatham's house. Warned by Sir William's fate, however, neither the witness nor Mr. Bigham succumbed to the temptation to eat the éclairs: instead they made inquiries, which soon led to Tatham's arrest.

Travers Humphreys at once put in a defence of insanity and

called a doctor who identified Tatham as a former patient whom he had certified as insane in 1914 and 1917 and sent to an asylum. And in the end the same fate befell Tatham again, for, being obviously a lunatic and not responsible for his actions, he was put into a lunatic asylum. Yet it is a very strange coincidence that his mad purpose should have been so well served by his happening to send chocolates to perhaps the only high police official in the world who would be likely to regard them as a delectable birthday gift, and that the parcel should have reached Sir William Horwood's office on the day of his birthday and when he was expecting the identical present from his daughter. How fortunate that Tatham did not think fit to send Sir William the éclairs!

The Irish troubles in which Travers Humphreys had already been concerned through the Casement and other cases—and not only in English courts—once more came into his practice in the summer of 1923, when he was briefed with Sir Douglas Hogg, K.C. (now Lord Hailsham), the Attorney-General at that time, and Roland Oliver to prosecute a number of Irishmen on a long charge of "unlawfully contriving to disquiet and disturb the peace of the King and to overthrow the Government in Ireland; and conspiring to maintain and assist and incite persons in Ireland, known as members of the Irish Republican Party, in and towards insurrections and breaches of the peace, and the obstruction and prevention by force of arms of the Government as by law established in Ireland, and to excite hatred and ill-will between different classes of his Majesty's subjects in England and Ireland." The case is usually remembered by the name of the principal defendant, Art O'Brien, but there were charged with him other men named O'Mahony, McGrath, Galvin, Mulcahey, Flynn and Fleming.

O'Brien, who like the others was an Irish republican, had recently been the principal in certain proceedings before a number of Courts. The Home Secretary, wearying of his republican proclivities, had arrested and deported him and some of the others to Ireland, where the special object of their detestation, the Free State Government, had been in power since the Treaty a year previously. O'Brien had at once applied to the Divisional Court in London for a writ of *habeas corpus* against the Home Secretary, but the Court refused his application; he appealed, and the Court

of Appeal reversed the decision of the lower Court and commanded the Home Secretary to "have the body" of Art O'Brien immediately before it. The House of Lords was next involved, but held that it had no jurisdiction to entertain an appeal from such an order by the Court of Appeal. So O'Brien and his companions were brought back to London.

Sir Patrick Hastings, who appeared for him and two others of the defendants in the present case, began the proceedings by objecting to the charge. His point was that, as they had been discharged under an order of the Court of Appeal on the ground that their arrest by the Home Secretary was illegal, they could not now be arrested again on substantially the same facts. Mr. Justice Swift, however, answered that it was open to them to plead their previous acquittal or conviction, when called on to plead, and the jury would then determine whether they had in fact been previously acquitted. (In English law, nobody may be put on trial again for an offence of which he has already been acquitted.) Meanwhile, said the Judge, there was a valid indictment against them, and the trial must proceed.

The prosecution then set out its case. This was that the Irish Treaty had been ratified by Parliament and executive authority had been transferred to the Irish Free State Government; but a certain body of Southern Irishmen were not willing to accept the terms of the Treaty, because they desired an autonomous republic in Southern Ireland. While freedom of opinion was an excellent thing, and indeed a thing of which the British people were most proud, yet nobody was entitled to use violence in order to impose an opinion on other people. The men in the dock, the prosecution held, were leaders in an attempt to produce men, money and munitions to assist a republican conspiracy in Ireland, which would not stop short of arson and murder to achieve its ends. Eamonn de Valera was the leader of the Irish republican party, while O'Brien was alleged to be its head in England. As for McGrath, he was the secretary of a body called the Irish Self-Determination League, and a note-book had been found on him by the police which contained a careful description of how to manufacture explosives. Galvin was a captain in a republican military organization quartered in England, and had been discovered in possession

of a plan for rescuing Irish prisoners from Brixton jail or from the van taking them there. The others too held various incriminating titles and posts.

Witnesses were called to describe the existing state of affairs in Ireland, such as that the railways were still being guarded by armed forces of the Free State against republican outrages. Others testified that secret munition-dumps were being established in England, presumably to reinforce the republican arms in Ireland.

The defence, on the other hand, declared that O'Brien and his friends had only used legitimate political methods. True, they favoured the establishment of an independent republic in Ireland, but they had not sought to bring this about by violence. O'Brien said that he had lived most of his life in England, had been appointed de Valera's "diplomatic representative" here four years previously, and sought to emphasize the diplomatic nature of his activities. He denied that the Irish Self-Determination League had any military character or that any of its funds had been sent to Ireland since the signature of the Treaty: the money, he said, was used solely and entirely for propaganda work in England. He added that, of his companions in the dock, O'Mahony was not a member of the League and had nothing to do with the fighting in Ireland; that McGrath also had no military activities; that he met Galvin only when they were recently deported together to Ireland and brought back, and Flynn and Fleming only while they were all in prison awaiting the trial; and that the remaining prisoner, Mulcahey, had never spoken at any of the League's meetings.

O'Brien assured the Court that he was opposed to violence in principle, and insisted that he stood wholeheartedly for the republican form of government originally proposed by the Irish leaders who had signed the Treaty with England. Mr. Justice Swift intervened with a question at this point, and O'Brien was obliged to admit that a republican government was inconsistent with the maintenance of the existing Free State Government.

When McGrath gave evidence, he explained that the entries in his note-book were only notes of lectures on engineering, given by an officer in the Free State Army, which he had attended in an internment camp some time previously. Further questioned, he said that he did not remember much about the lectures and had

failed to pass the subsequent examination. The Attorney-General remarked that the witness's failure did not much surprise him since this "engineering" course seemed to deal chiefly with the blowing up of buildings and the making of bombs.

The trial lasted for six days but, when the Judge began to sum up, he said that not one minute of the time had been wasted by any of the parties to the case, which was of profound public importance. The jury, he went on, had been told by Sir Patrick Hastings in a speech of great eloquence that the trial might result in a grave national misfortune if, by convicting the prisoners, they ruined the friendly relations which were now once again growing up between Ireland and England. But, said the Judge, the jury must not consider the consequences of any verdict they felt obliged to return on the evidence before them. The conspiracy alleged against the prisoners, he continued, aimed at the establishment of an Irish republic in place of the Free State Government: it might indeed be based on the highest motives of patriotism, but this was no answer to the law, which forbids the employment of violence for such ends or the incitement of others to use violence.

The jury returned a verdict of guilty against all the defendants except O'Mahony, and the Judge passed sentence of two years' imprisonment in the second division on O'Brien and McGrath, and of six months on the others. The prisoners were then removed from the Old Bailey in a police-van, echoing the cries of "Ireland for ever!" which were raised by their friends surrounding the approaches to the court.

CHAPTER EIGHT

IN 1924 Travers Humphreys became the Chief Senior Treasury Counsel. Sir Richard Muir, who for so long had held that post, died and Humphreys was at once appointed to succeed his old friend and colleague. Muir had been ailing for some time and more and more work had devolved on Humphreys, so that his new appointment was perhaps more of a formal than a real alteration of existing circumstances.

He was soon called on to prosecute in one of the most widely reported cases of the century. It arose out of the sensational "Mr. A." case and was the trial of William Cooper Hobbs, an elderly moneylender and solicitor's clerk, for blackmailing Sir Hari Singh, then the heir-presumptive to the throne of Kashmir and to-day its Maharajah. Travers Humphreys led for the Crown, having with him Roland Oliver and, for the first time in an important case, his son, Christmas Humphreys, who was beginning to make a name at the Bar. Sir Henry Curtis-Bennett, St. John Hutchinson and I. G. Kelly appeared for Hobbs, who was charged with conspiring with two other men, Captain Charles Arthur and Montague Noel Newton, though neither of these was in custody. Newton had turned "King's Evidence," and Arthur was in a French jail.

Opening the case, Travers Humphreys referred at once to the "Mr. A." case, Robinson *v.* the Midland Bank, which had been tried by Mr. Justice Darling and a jury in the King's Bench Division a few weeks previously. As this trial had revealed the episodes in connection with which Hobbs was now charged, our best plan will be to begin by describing it.

The plaintiff, Charles Ernest Robinson, was a bookmaker who found it convenient to do much of his business under the name of "Charles Bloomfield"—a remarkable tribute to the absence of anti-Semitism in this country. He sought to recover a sum of £125,000 which, he said, the Midland Bank had "received for

his use" but had negligently paid out to somebody else. Lord Halsbury, K.C., appeared for him and unfolded a story so remarkable that it filled pages of the Press all over the world. It was a scandal of universal appeal. Robinson's wife, it seemed, was a handsome and charming person who had suffered various misfortunes in her recent life, not least among these being a chance meeting with Montague Noel Newton: he was a clever, plausible scoundrel of about fifty, who had gone to jail some seven years before the War for forging notepaper belonging to the famous solicitors, Messrs. Lewis and Lewis. Since his release from prison, he had lived by his wits, fairly successfully. According to Mrs. Robinson, she met Newton by chance at the beginning of 1919, was captivated, seduced, and afterwards blackmailed by him. At a Victory Ball at the Albert Hall on the first anniversary of the Armistice, 11th November, 1919, she and a woman friend found themselves —by accident or Newton's design—in the next box to an Oriental potentate and his secretary. The name of this personage was not divulged in court, Mr. Justice Darling explaining that he had been requested to conceal it for reasons of state: he was referred to, throughout this action, as "Mr. A."

Mrs. Robinson and "Mr. A." became friends; indeed, according to Lord Halsbury, her husband's counsel, their acquaintance quickly "developed into a great and true affection on her part and, it might be, on his." By a fortunate coincidence a similar affection developed at the same time between Mrs. Robinson's friend and "Mr. A.'s" secretary, a man of the same race and hue as himself. They all lived together for a while in London and Paris, and it was suggested that the two women might accompany "Mr. A." and his secretary to the East. This hope was never fulfilled, for, as "Mr. A." and Mrs. Robinson lay in bed one morning in a Paris hotel, the door of the room was flung open and an Englishman appeared, dramatically crying, "Now I've got the evidence I want."

This man was Newton, but "Mr. A." received the impression that he was Mrs. Robinson's husband. This impression was soon confirmed when "Mr. A.'s" aide-de-camp, an Englishman named Captain Arthur, informed his employer that Robinson, outraged in his finest feelings as a husband, was preparing to bring divorce



"MR. A" (now MAHARAJAH OF KASHMIR): His acquaintance with Mrs. Robinson "developed into a great and true affection on her part and, it might be, on his," said Lord Halsbury, K.C. *Photo: Keystone.*

proceedings against his wife, who had returned precipitately to England, with "Mr. A." cited as co-respondent. As Captain Arthur dutifully pointed out, a scandal of this kind might well lead to "Mr. A." being deprived of the succession to the throne to which he was heir. Before long "Mr. A." made out a cheque for £150,000 which the aide-de-camp sent to Robinson's solicitors, a firm named Messrs. Appleton, in consideration of their client's withdrawing divorce proceedings.

The real Mr. Robinson played a somewhat curious part in these incidents. His first intimation, he told the Court in evidence, that anything was wrong was when Newton approached him in London and told him that his wife had been misbehaving with a "nigger" in Paris. Robinson realized that this insult to his honour could only be met in one way, but, instead of going to his usual solicitors to discuss a divorce, he allowed Newton to take him to Messrs. Appleton, whose managing clerk was William Cooper Hobbs, a person with an ambiguous reputation and the real principal in the whole affair. Hobbs agreed to handle the divorce on his behalf, but before long he summoned Mr. and Mrs. Robinson to his office and told them that the repentant "Mr. A" was offering to pay them £25,000 to escape divorce proceedings. They agreed to this compromise. Hobbs deducted £4,000 to cover his fees, and gave Mrs. Robinson the remaining £21,000.

This was highly unprofessional of Hobbs, for, as we know, "Mr. A." had sent him a cheque for six times the amount of which he spoke to the Robinsons, and in any case £4,000 was far higher than an ordinary solicitor would have charged a client. Mrs. Robinson said that, when she returned to her flat that day, Newton arrived and took from her by force £10,000 of the sum Hobbs had given her, so that all the Robinsons received for the slight on their conjugal honour was £11,000, which Robinson said he allowed his wife to keep. Nor was this the full extent of his generosity: a month or so afterwards he became reconciled to her, forgiving the past.

So matters went on for three years, until in July 1923, Robinson happened to meet "Mr. A.'s" former aide-de-camp, Captain Arthur, and learned from him that the hush-money which "Mr. A." had paid was not £25,000, but £150,000, and, moreover,

that this cheque had been paid into a branch of the Midland Bank in Robinson's name. Robinson at once made inquiries from the bank and ascertained, to his distress, that not only was this true but that the money had been paid out again to somebody who presented a cheque purporting to bear Robinson's signature. As this signature was undoubtedly forged, Robinson asked the bank to pay him the sum which had been wrongly handed over, and, when the bank refused, he instituted proceedings against it. This time he did not go to Hobbs at Messrs. Appleton's office, but used his regular solicitors, Messrs. Davis.

It came out in evidence that Hobbs had opened an account with the bank in January 1920, in Robinson's name, sending in both "Mr. A.'s" cheque for £150,000 and a signature purporting to be Robinson's. The money was collected by the bank, and two days later Hobbs presented an open cheque for £130,000, apparently signed by Robinson, and received the money in notes, many of which were traced to his account in a Paris bank. Lord Halsbury drew attention to the unusual action of the bank manager in opening an account of this magnitude without even asking to see his client in person, and claimed that this represented gross negligence. Counsel said he realized that the bank manager was reluctant to risk losing so much business by raising difficulties, but he held that it was his duty to see Mr. Robinson and obtain from him in person a specimen signature, in which case the forged cheque could never have been cashed. Owing to the bank's negligence in this matter, Lord Halsbury went on, most of the £150,000 that "Mr. A." had intended for Robinson, had gone to Hobbs, who had presumably shared it with his two confederates, Newton and Captain Arthur.

Mr. Justice Darling suggested to counsel that, after all, it appeared that the money would never have been available except for the machinations of the three swindlers, and "Surely these labourers are worthy of their hire."

To this Lord Halsbury replied with dignity that, whatever the others might have done, it was not wrong for Robinson, his client, to receive money from his wife's repentant lover in order to provide for her future.

Sir John Simon, for the bank, endeavoured in cross-examination

to cast doubts on Robinson's original innocence and later generosity in regard to his wife and "Mr. A." He took the plaintiff through a lengthy scrutiny of his financial career and his straitened means at the time of the incidents, and claimed that there had really been two conspiracies, one of them engineered by the Robinsons, Hobbs, Newton and Captain Arthur to obtain money from "Mr. A.," and the other—in which Hobbs, Newton and Arthur were concerned—to deprive the Robinsons of their full share of the loot. At last Sir John persuaded Robinson to say that, now he was aware of all the facts, he was willing to pay back to "Mr. A." the £25,000 which he and his wife had received.

Counsel also suggested to Robinson that he was still permitting his wife an unusual degree of freedom in entertaining male guests, but the plaintiff replied that he was convinced that her guests all behaved with propriety. At this Mr. Justice Darling intervened, referring to a specific item in the evidence.

"Do you mean to say," he asked Robinson, "that you allowed your wife to be left alone with a man in her flat after what had happened in Paris?"

"It didn't dawn on me," said Robinson.

"Although you know what she is?"

"I don't think she's as black as she's painted," replied the chivalrous husband.

Pursuing this inquiry, Sir John Simon mentioned the number of a motor-car which had been seen recently standing outside the Robinson's flat. Robinson seemed bewildered, and it at last turned out, to the delight of nearly everybody in court, that this motor-car belonged to one of Robinson's counsel, who had been summoned one evening to the flat for a consultation with him. The only person, perhaps, who was not amused at the disclosure was the barrister concerned.

Hobbs was called as a witness, and his reluctance to discuss the affair was obvious. Besides, as he explained to a sceptical Court, all his papers relating to the case had recently been stolen from his safe at Messrs. Appleton's office. Then Mrs. Robinson was called, and Sir John Simon questioned her. He wanted especially to know how Newton had managed to find her room in the Paris hotel, and how he had managed to enter it that morning: why was the

door unlocked? Again, had Mrs. Robinson thought fit to tell "Mr. A." after Newton's irruption that he was not her husband? Mrs. Robinson said that she told everybody this; so far as she had referred to her husband at all, it was only that she feared that Newton, of whose blackmailing proclivities she was only too well aware, would go and tell him of her affair with "Mr. A." At this stage of the trial, the Judge called Hobbs into the box again and asked him more questions, but the witness denied anything which was likely to incriminate him. It came out, however, that, besides the first cheque for £150,000 which "Mr. A." paid, he had actually been asked for, and had signed, another cheque for an equivalent amount. This total of £300,000 would surely have established a record in the annals of blackmailing, but "Mr. A." happened to take professional advice and the second cheque was stopped.

After the case had gone on for several days, the bank called its star witness, none other than Montague Noel Newton himself, who admitted that the bank had paid him £3,000 to take the risk of coming to England in connection with the proceedings, as a result of which he might well find himself in the dock. He gave his evidence with impudent aplomb, and enjoyed many pleasant exchanges with the Judge and counsel. According to his story, the whole affair was the outcome of a conspiracy hatched between himself and Mrs. Robinson and the others. Mrs. Robinson, he said, herself suggested that he should play the part of her husband in Paris, because the real Robinson lacked the appearance and manners of a "Society woman's" husband. Captain Arthur, Newton added, had been consulted in the matter, and had given his opinion that Newton would "do all right" as the pretended husband. Describing the effect on "Mr. A." of being found by him in bed with Mrs. Robinson, Newton remarked thoughtfully that, "If it is possible for a coloured gentleman to look green, he did."

The Judge asked him questions about Hobbs. "Did you know him before that time?" Mr. Justice Darling began.

"Yes."

"As a solicitor?"

"As an adviser," Newton pointedly replied.

Lord Halsbury cross-examined him, and naturally brought up his previous conviction in 1908. Newton blamed this principally on his solicitor, the Arthur Newton who has already been mentioned in this book. Arthur Newton (said Montague Noel Newton) had failed to defend him properly and had apparently misused the money put up for the defence. However, as the witness made no claim to be regarded as an honest man but was frank enough to admit that he lived by his wits as best he could, his previous conviction did not appear to weigh on him. He agreed, none the less, that he was now ashamed of his share in the blackmailing of "Mr. A."

"When did you begin to feel ashamed?" Lord Halsbury instantly asked him.

"With the likelihood of exposure," Newton answered.

But when Lord Halsbury asked Newton, "Who is the most dishonest of you six?"—referring to the alleged conspiracy between the witness, the two women, Robinson, Arthur and Hobbs—Newton hesitated, and Mr. Justice Darling glanced at the clock. "We must give the witness time to think it over," the Judge suggested, and adjourned the Court for luncheon.

When the case was resumed, Newton said with his usual frankness that he had gone out to India to secure the second cheque for £150,000 from "Mr. A.," and complained, a little bitterly, that Captain Arthur, the A.D.C., had taken the opportunity to blackmail *him*.

Counsel then addressed the jury, Sir John Simon arguing that the plaintiff, Robinson, had been just as much involved in the original conspiracy as the others. Why, he asked, if Robinson was the innocent person he pretended to be, did he seek out Hobbs, of all people, to conduct the divorce proceedings for him, instead of going to his usual solicitors? And why had Robinson not taken the trouble to find out the identity of the man with whom his wife had misconducted herself, unless his real purpose was to blackmail this man? Surely, said Sir John, Robinson knew that one cannot cite as co-respondent "a nigger, unidentified." The jury retired and eventually returned a rather curious verdict. They found that a conspiracy had existed, but that Robinson and Mrs. Robinson were innocent of any share in it; and that the bank, in paying out

the money, had obeyed the mandate which it had received from the depositor. This verdict led to legal arguments, and the Judge held that it was a verdict for the defendant bank. The case, incidentally, went to the Court of Appeal, but Robinson got no advantage by this.

Hobbs was arrested just as he was boarding a boat at Gravesend for Rotterdam, and the identity of "Mr. A." was at last revealed. This disclosure, which had long been made in the American Press, put an end to a welter of gossip in England implicating the names of innumerable Maharajahs, Rajahs, Emirs, Agas, Beys, Sultans, and other "Eastern potentates."

And so we may return to the Old Bailey, where we left Travers Humphreys opening the case against Hobbs and summarizing the events which have just been described. He went on to say that, as the jury in the civil action had acquitted Mr. and Mrs. Robinson of any share in the conspiracy to blackmail Sir Hari Singh, he would argue the present case on that assumption. To this Mr. Justice Avory remarked, and he repeated the observation more than once, that the verdict of the civil jury was not binding on the jury now empanelled at the Old Bailey. Humphreys, however, followed his original plan.

The first witness against Hobbs was Montague Noel Newton, whom, said Humphreys, the prosecution would infinitely have preferred to see in the dock beside the prisoner, were it not that, unfortunately, Hobbs's guilt could not be fully established without Newton's evidence. As for Captain Arthur, the third conspirator named in the charge, Humphreys regretted that it had still not been possible to secure his extradition to this country.

Newton repeated his story that Arthur and Mrs. Robinson suggested the blackmailing of Sir Hari Singh, and he now added that they and he went along to consult Hobbs about the best way to carry out their plot. It was Hobbs, he said, who insisted that, to prevent any awkwardness during the mock threats of divorce, Robinson must temporarily leave the flat in which he was happily living with his wife. Newton was cross-examined vigorously by Sir Henry Curtis-Bennett, and admitted that he passed under many names in the course of his career; however, as he again laid no claim to moral rectitude, he was not discountenanced.

Hobbs was undoubtedly a sick man, and more than once he had to be taken out of the dock for medical attention. He gave evidence at great length on his own behalf, but fared badly in cross-examination at Travers Humphreys's hands.

"Is it your case," Humphreys began, "that there was no conspiracy to defraud Sir Hari Singh?"

"It seems to me now that there was," Hobbs answered, "but I was no party to it."

He added that he had honestly thought, when he wrote solicitors' letters to "Mr. A.", that Newton was Mrs. Robinson's husband; but Humphreys forced him to admit that he had been a witness at Newton's marriage some time before to another lady. Hobbs's comment on this was that doubtless Newton had deceived him in the matter also. Question after question demonstrated, however, that he was much too shrewd a man to be easily deceived, especially by Newton, whom he had known so long and intimately. Sir Henry Curtis-Bennett did his best for his client, arguing that the case for the prosecution was too weak to justify conviction, if only because it rested so largely on the evidence of the unspeakable Newton. Why, asked Sir Henry, was not Sir Hari Singh called as a witness? He told the jury that Hobbs was "an honest, if foolish man," and complained that even the most innocent actions on his part were being twisted against him. For example, the prosecution were actually implying that Hobbs's intention in seeking to go abroad had been to escape justice, whereas, as everybody now knew, he was an invalid and had merely wished to visit Baden-Baden for a cure. Sir Henry begged the jury not to let Hobbs be made a scapegoat for the crimes of Newton and Captain Arthur, both of whom ought to be in the dock instead of him.

To this Travers Humphreys replied that there was no reason to call Sir Hari Singh as a witness, because he had never set eyes on Hobbs and so could provide no evidence of any value. Of Hobbs's guilt, Humphreys went on, there could be no doubt. Both he and Newton knew very well that whoever signed Robinson's signature for the bank and on the back of the cheques—and Newton said it was Hobbs—had no right to do so. If Hobbs's suggestion, that he was deceived by Newton at the time of the divorce correspondence, were worthy of a moment's credence, then

Newton deserved "a niche in a cathedral for his generosity" in paying the prisoner huge sums of money for merely writing a solicitor's letter or two to Sir Hari Singh.

The jury accepted Humphreys's arguments and found Hobbs guilty. Sir Henry Curtis-Bennett then asked the Judge to pass the shortest possible sentence, in view of the fact that Hobbs had apparently only been brought into the conspiracy after it was already launched and because of his ill-health. Humphreys raised no objection to this plea, and the Judge accordingly sentenced the prisoner to two years' imprisonment with hard labour, which, though the maximum penalty for conspiracy, was very much less than he might have received on some of the other charges in the indictment.

Next day in the House of Commons a Conservative Member of Parliament asked the Home Secretary, Sir William Joynson-Hicks (later Lord Brentford) to introduce a bill to permit trials *in camera* for blackmailing cases, in order that the victims of blackmail should not be exposed to such hideous publicity in the Press as Sir Hari Singh had suffered, and would not, in consequence, hesitate to place matters in the hands of the police. Mr. Tom Johnstone, a Socialist Member for Dundee, opposed this suggestion, because, he said, public trials like the "Mr. A." case helped the working-class "backbone of the country" to see how "the idle, useless, parasitic rich spent their time." The Home Secretary replied that he too was opposed to secret trials, not for Mr. Johnstone's reasons but because he feared they would only increase morbid public curiosity; at the same time, he said, he was considering the possibility of making blackmail punishable by flogging as well as imprisonment. Nobody in the House seems to have troubled to point out to "Jix" that, in the case which had led to the discussion, the possibility of flogging would not have served as a deterrent to Hobbs, who was too old and much too ill ever to be punished in this way. Fortunately, however, the Courts have shown more wisdom than the late Lord Brentford and more humanity than Mr. Johnstone, and, with the concurrence of the Press, the names of blackmail victims are to-day usually withheld from the public.

It only remains to be said that, several months afterwards, the French authorities finally refused to extradite Captain Arthur,

the aide-de-camp, on the ground that the time limit had expired in which he could have been given up to English justice to take his trial. Instead, the French themselves sentenced him to thirteen months' imprisonment for receiving—in France—a cheque for £40,000, his share of Sir Hari Singh's payments. As Arthur had already been lodged in a very uncomfortable French jail for a year, he was soon released from custody.

A month or two after the end of this case, Travers Humphreys received an honour which for some time had been predicted for him in recognition of his long record of public service as a Treasury Counsel, and his outstanding position in the legal profession. On 3rd June, 1925, he became Sir Travers Humphreys.

A few months later again another distinction, this time a purely professional one, came his way. To ease the administrative difficulties caused by the sudden death of Mr. A. J. Lawrie, the Deputy-Chairman of the London Sessions, Sir Travers agreed to act temporarily as his successor until a new man was appointed. It was reported erroneously in the Press that he had been offered the appointment and refused it; but in fact he was not a candidate. This same month also, he was offered and accepted the Recordership of Cambridge, which had fallen vacant through the death of J. E. P. Rawlinson. Sir Travers had special reasons for appreciating this honour, because it allowed him to renew and strengthen his old association with Trinity Hall, the college in which he had begun his apprenticeship to the law. He took every available opportunity to visit it when his new judicial duties took him to Cambridge, and he remained Recorder there until his elevation to the Bench as a High Court Judge.

Another Trinity Hall man in Roland Burrows, K.C., followed him as Recorder both at Chichester and, afterwards, at Cambridge, where indeed Mr. Burrows still reigns. It is interesting that the two other Hall men who have been Recorders of Cambridge also followed one another: their name was Pepys, and they were Samuel Pepys's uncle and cousin.

A man whom the police regarded as at least equal to William Cooper Hobbs in ability and as a public nuisance was prosecuted by Sir Travers a month or two afterwards. This was Charles Sharman, a man of seventy-five years of age, who combined the

outward appearance of a blameless family and police court solicitor in the eastern suburbs of London, with a more congenial career as one of the most audacious and successful receivers of stolen property in Europe. The actual charge against him was of receiving a share certificate stolen from a Post Office mail-bag and forging a cheque, but Sir Travers, as we may now call him, stated in opening the prosecution that Sharman's activities had been on a far larger scale. In the authorities' view, he had worked hand in hand with a gang of international thieves and had systematically received and helped to dispose of an enormous amount of stolen goods. Since he and his gang specialized in stealing mail-bags, which are the most carefully guarded of all valuable objects in the world, it is possible to realize what an extremely clever scoundrel he was.

The police, whose work was highly praised by both Sir Travers and the Judge, Mr. Justice Salter, had for some years suspected Sharman but had never been able to bring anything home to him until after an incident which happened about three years before. A mail-bag, containing among other things ten £50 bonds addressed to the Bank of England, was stolen between Liverpool and London. Four of these bonds were cashed after some delay in Antwerp, and two more in Brussels. They were presented in both cases by an old gentleman who gave his name as Johnson, but the police secured an identification of him as Sharman by the Belgian bank clerks. A month after this robbery another mail-bag mysteriously vanished between Birmingham and Euston: among its contents was a certificate of transfer of £900 Quebec Railway stock, which—now that the police were on his trail—was also traced to Sharman.

His explanation, however, had been that a poor man had picked up the certificate in the street and brought it to his office, and the police had not thought their evidence against him sufficiently strong to ensure a verdict against him.

But soon another mail-bag went astray on the railway between Bristol and Paddington, and a £50 Mexican Oil share was among the lost letters. This was subsequently sold in Manchester, and, though Sharman disconcerted the police by seeming able to prove that he was at home that day, at least nine people declared that they recognized him as a man who had sold some War Bonds, missing

from the same mail-bag, in Canada during the summer of the following year.

After this, Sir Travers said, Sharman realized that the game was up. He then made a partial confession to the police, telling that he was sorry to have misled them, but he was being badgered and blackmailed by a gang of international thieves who had forced him, by threats of personal violence, to assist them and who were making similar threats against him if he dared to give any information about them. Sharman incidentally stated that this gang once succeeded in stealing nearly a million pounds' worth of loot from mail-bags on an Antwerp quayside, but had been obliged to burn most of it because it was not negotiable: this, said the now incautious old scoundrel, had broken his heart.

So well had the case been prepared and stated by Sir Travers that the prisoner offered no defence to the charge, and withdrew his original plea of not guilty. It was urged on his behalf by Sir Henry Curtis-Bennett that he had tried to make amends for his crimes by assisting the police to trace the rest of the gang and to recover a great deal of the property they had stolen. The Judge commented that it was a most scandalous affair and that, if Sharman had been a younger man, he would have been sent to prison for seven years. But in view of his age, his professional ruin as a solicitor, and Sir Henry's eloquent appeal for him, the term would be three years' penal servitude, while, in addition, he must pay the entire costs of the prosecution.

This last item, it may be supposed, effectually deprived Sharman of most, if not all, of the fortune he had amassed in a long career of planning crimes for other men to commit.

To-day, when one finds a publicist so "bourgeois" in his political views as Professor Gilbert Murray advocating that the moral aid of Soviet Russia shall be sought and used in the interests of international concord,* it comes as a shock to remember how acutely and almost unanimously the Bolsheviks were regarded ten years ago as the one utterly disruptive force in international and Imperial

* "Surely the one road of safety for Europe and for the British Empire in the face of the very real dangers now threatening is to see that . . . collective security, based on the solidarity of France, Russia, the Little Entente and the good will of all the smaller nations, is a reality," Professor Gilbert Murray in a letter to *The Times*, 17th January, 1936.

affairs. It is true that the only apparent change in their policy has been that, after for so long lecturing the League of Nations from Moscow as a league of thieves, M. Litvinov now occupies a more convenient platform in Geneva: otherwise, the Soviet attitude seems much the same. Was opinion wrong, then, ten years ago when every British Government, Conservative and Socialist alike, rebuked the Bolshevist as international peace-breakers? Or is it wrong to-day in regarding them as defenders of the peace?

Be this as it may, Sir Travers Humphreys was consulted by the Director of Public Prosecutions towards the end of 1925 on the desirability of bringing into court a representative group of British adherents to Moscow, and so demonstrating that the Bolshevist Government must not be permitted to interfere in other nations' affairs. It will be recalled that a similar prosecution for sedition had been launched in the previous year by the first Socialist Government but was discontinued by it in response to protests from some of its Left-Wing members. Indeed, it was largely on account of their indecisive handling of the proceedings against J. R. Campbell, the crippled and embittered editor of the Communist *Weekly Worker*, that the Socialists fell from power and were replaced by a Conservative majority.

Sir Travers examined the material and saw that there was an overwhelming case for the prosecution, on various counts, of many communist propagandists in this country. But who precisely were to be charged? The Communist societies over here were somewhat secretive: some of their most active workers occupied positions of comparative obscurity, while other apparently prominent agents were mere figureheads to cover the traces of cleverer men.

In the end Travers Humphreys selected a round dozen from the many candidates. One or two of these had overwhelming claims. J. R. Campbell, for instance, the main figure in the previous year's administrative fiasco, ought not to be overlooked: Sir Travers "put him on the list." And William Gallacher, too, who is to-day a Member of Parliament, could not be ignored; nor Harry Pollitt, nor Arthur MacManus, nor J. T. Murphy, all three members of the Executive Committee of the Moscow Comintern, the body responsible for Communist international activities. Then there were one or two others whose work as organizers made it difficult

to pass them over. Albert Inkpen, the secretary of the British Communist Party, and Ernest Cant, its London organizer, and William Rust, the secretary of the allied Young Communists League, also went "on the list."

This still left four places free. Perhaps to save Gallacher a lonely journey south from Clydeside, an energetic colleague of his was listed with him, one Thomas Bell; T. W. Wintringham, Campbell's assistant as editor of the *Weekly Worker*, was permitted to share his chief's chances. Two places remained, and one of these fell, as by right, to a member of the Party executive, Wal Hannington, who had long specialized in declaiming fiery speeches to unemployed audiences. And, making his last selection, Sir Travers paid tribute to the more intellectual side of the Communist movement in England; he selected Page Arnot, the director of the Labour Research Department (formerly the Fabian Research Department) who was also a member of the Party Executive.

The twelve men were arrested in October, precisely a year after the Socialist Government's collapse over the Campbell case, and next day ten of them were formally charged at Bow Street police court before Sir Chartres Biron. The two Scots were simultaneously arrested and charged in their own country being then remitted to the magistrate at Bow Street. They were the oldest of the prisoners, being forty-three years of age, while the original Bow Street party ranged from twenty-two years, in the case of Rust, to Inkpen's forty-one. The London headquarters of the Communist Party and the Young Communists League were searched, and many interesting documents impounded.

The main charges against the twelve men were that they had unlawfully conspired to publish seditious libels in the *Weekly Worker* and elsewhere, and had also conspired to incite soldiers and sailors to commit breaches of the Incitement to Mutiny Act. Sir Travers Humphreys took charge of the prosecution, while Arthur Henderson, the barrister son of the Socialist Party leader, was briefed for some of the defendants, the rest of whom chose to conduct their own defence. Later, Humphreys had the assistance of Mr. Percival Clarke, while Mr. Henderson was led by Sir Henry Slesser, K.C.

Opening the proceedings, Sir Travers said that none of the

defendants was being prosecuted for any individual acts: "We say that all the accused are engaged, with many others, in an illegal conspiracy, that is to say, a conspiracy to do an act or achieve an end by unlawful means." They were not before the Court, he added, because they called themselves Communists, but because they were engaged in the dissemination of seditious doctrines which involved three illegal things:

First, the overthrow by force of the established constitutional government of the country;
Second, the creation of antagonism between different classes of the King's subjects (i.e., the "class-war"); and
Thirdly, the seduction from their allegiance of the armed forces of the Crown.

If the evidence, Sir Travers went on, established that the prisoners had been knowingly disseminating these doctrines, then there was no lawyer in the world who could argue that their propaganda was not seditious and, consequently, punishable by the law.

He quoted from books and papers which the various defendants had written or published, or both, and from speeches made by them. Against Campbell and Wintringham, for instance, he quoted several issues of their *Weekly Worker*, and from an article of the former's in which he wrote, "We want to get the young worker-soldier to forget his regiment and forget the blasted Empire and remember only his tortured class." Against MacManus, he quoted a speech containing a hope "to see the Red Flag flying over Buckingham Palace" as it already flew over the palaces of the late Tsar. Against Gallacher there was a portion of his speech to a Moscow audience: "We must give special attention to disrupting the armed forces of Capitalism," and so forth. And there were pamphlets and articles telling soldiers who might be called out to keep order in connection with industrial disputes, to disobey their officers if they were ordered to open fire on strikers.

In order again to make clear the nature of the charge, Sir Travers explained that the defendants were admittedly leaders of the Communist Party of Great Britain, and that this was an illegal body in so far as it aimed at the overthrow of existing society by force of arms, which must of necessity involve the inciting of troops

to mutiny. The statutes of the Communist International, as set out in Moscow in 1920—which statutes the defendants had circulated and in accordance with which they directed Communist activities in this country—gave as its aim "to organize an *armed** struggle for the overthrow of the international bourgeoisie and the establishment of an international Soviet Republic." The word "armed" was the basis of the prosecution's case.

Sir Henry Slesser, and those of the defendants who were not represented by counsel, cross-examined its witnesses vigorously in an attempt to whittle down the seriousness of the charge against them. Thus Sir Henry argued that a mere exhortation to troops not to shoot at strikers did not mean that they ought to shoot anybody else. Campbell, for his part, reminded the Court that he had been arrested on a similar charge in the previous year and that the case against him had been withdrawn by the Socialist Government: and he asked a police witness, "Would it not be difficult for any one to believe that words which were not seditious in 1924 are seditious in 1925?"

"I'm not aware that they were not seditious in 1924," the policeman prudently replied.

Pollitt and some of the others questioned detectives, who had been watching their headquarters, about a recent occasion when a party of British Fascists had damaged the Communist bookshop downstairs. The detectives said that they had no official knowledge of this, and returned the same cautious answer when they were questioned about alleged equally "seditious" activities by Mussolini in Italy, and by Lord Carson and Lord Birkenhead in Ulster before the War.

Finally Sir Henry Slesser put it to the magistrate that the British Communist Party was as legal as any other British political party. True, he said, his clients held certain theses put forward by a party in another country, but those theses had been given a strictly limited application so far as England was concerned. Sir Chartres Biron, however, committed the twelve defendants for trial, bail being provided by people of such distinction as Mr. Bernard Shaw and Mr. George Lansbury, somewhat to the annoyance of Mr. Saklatvala, the Parsee who had sat in Parliament as a Com-

* Author's italics.

munist and who now arrived too late to put up the necessary bond.

The Old Bailey trial began less than a month later before Mr. Justice Swift. Sir Douglas Hogg, the Attorney-General, and H. M. Giveen were brought in to reinforce Sir Travers Humphreys and Percival Clarke. The prosecution's case followed much the same line as at the previous hearings but some more facts were brought up against the prisoners. Thus, it was alleged that money had been sent from Moscow to pay their salaries, and that Wintringham had signed an appeal to soldiers and sailors to shoot their officers and disobey orders. A clerk from the Co-operative Wholesale Society Bank gave evidence that over £14,000 had been paid into the Communist Party's account in London since the beginning of the year, chiefly in cash.

On the other hand, Pollitt made a police witness admit that he had gone to the organizers of the Young Communists League in the guise of a sympathizer. "That was a dirty trick, wasn't it?" said Pollitt, but Humphreys at once countered this by putting up another witness who had found one of Campbell's letters, saying that it would be an excellent idea for a few earnest Communists to enroll themselves among the police in big towns. And when Gallacher suggested that a certain compromising paper might have been inserted at Scotland Yard into the documents taken from the Party's headquarters, Sir Travers produced a witness who swore that this had not happened.

Sir Henry Slesser, meanwhile, fell foul of the Judge by asking witnesses if in their opinion certain passages from speeches and pamphlets, which they had read out, were seditious. "You cannot ask the witnesses their opinion whether or not these are seditious, Sir Henry," said Mr. Justice Swift. "That will be for the jury to decide. You will have an opportunity to ask the jury to say that they are not seditious."

There were lighter interludes, as, for example, when Campbell complained that among the documents seized by the police was the whole of Mr. Saklatvala's personal correspondence with his Battersea Parliamentary constituents: everybody in court except Campbell and Saklatvala seemed to feel that there was something odd in an M.P.'s correspondence with his constitutents being conducted by the officials of a party instead of by himself. And a

detective-sergeant had to confess that, at a Communist meeting a short time previously, he had been caught with his ear to a trap-door and been handed over by the humorous organizers to a young policeman outside, who, said the detective ruefully, "did not quite understand the position."

For the defence, Sir Henry Slesser said he proposed to call only one witness, who would testify that he had bought from His Majesty's Stationery Office the report of a Government Commission appointed in 1920 to examine British refugees from Russia about conditions there: this report, said Sir Henry, contained a suggestion that the theses of the Communist International should be widely studied by people in this country who wished to understand the basis of the Soviet system. Was not this, he asked, exactly what the present defendants were being blamed for suggesting?

Sir Henry addressed the jury for six and a half hours, and, next day, Pollitt harangued them at length. He sought incidentally to put in a compilation of the Ulster speeches of the Home Secretary, Sir William Joynson-Hicks, and of Lords Birkenhead and Carson, but the Judge would not allow it.

"I can't give you permission for this," he said, adding pleasantly, "we can't have their seditions mixed up with yours."

"When we're the members of the Government," Pollitt retorted, "we shall take action against *them*."

At the end of a long, unexpectedly good-tempered speech, Pollitt thanked the Judge for allowing him so much latitude to make his points. He was followed by the acidulous Campbell, who sought to extend this latitude by broadcasting charges against Scotland Yard officers of tampering with the evidence. When the Attorney-General objected to this, the Judge interrupted Campbell, warning him that, if he wished to accuse the police of perjury, he must go into the witness-box and be examined—and cross-examined—on the matter. The next defendant to speak was Gallacher, who sought to answer the prosecution's suggestion that the officials of the British Communist Party were paid by Moscow. He said that the money in the Co-operative Bank might represent the working capital of the Communist Bookshop and receipts from the sales of the *Weekly Worker*. He added that he and his friends were not seeking to establish a reign of violence as the prosecution

said, but that such a condition of affairs already existed with the workers as its victims, and that the Communists wanted to end it. None of the defendants went into the witness-box, and, when their speeches were ended, the Judge summed up. The jury then retired and at once found all twelve men guilty on all the charges in the indictment.

Arthur Henderson, as counsel for some of them, asked the Judge to impose only a mild punishment in the first division for these "political offences," a description which Mr. Justice Swift at once repudiated. Police records were read, which showed that Inkpen, Pollitt, Gallacher, Rust and Hannington had been previously convicted on similar charges, and they were sentenced to twelve months' imprisonment in the second division. The other seven defendants were asked individually by the Judge, "Will you be bound over?" Each of them replied, as they had agreed among themselves to do, "No, I will not." They were therefore sentenced to six months' imprisonment, and the case ended.

After these successful prosecutions, Sir Travers conducted a successful defence in the Boulton's Bank case, in which nearly a quarter of a million pounds were involved. The case is also remarkable because, unlike his usual experience, twice he found himself at loggerheads with the Bench.

He was briefed on behalf of Colonel Frederick Cripps, who was charged, with his partners in Boulton's Bank, Robert Boulton and a Mr Moncrieff, on several counts of fraudulently converting to their own use stocks, bonds and shares entrusted to them by the Alliance Bank of Simla. Another count charged Boulton, as a director of the Alliance Bank, with converting this property to improper uses, and the other two defendants with aiding and abetting him in this. Many leading criminal lawyers were engaged in the case, besides Sir Travers. He had St. John Hutchinson to assist him for Colonel Cripps; Boulton was defended by Sir Henry Maddocks, K.C., and Walter Frampton; Moncrieff was represented by Roland Oliver, K.C., and Sir Cassie Holden; while the prosecution rested in the hands of Sir Henry Curtis-Bennett, K.C., Mr. Hedley and H. D. Roome. The Judge was again Mr. Justice Swift.

The prosecution explained that the three defendants were part-

ners together in the merchant bank of Boulton Brothers, which was also a well-known issuing-house. Robert Boulton was their senior partner; he was also a director of the Alliance Bank of Simla, of which he was chairman between 1917 and 1920. In 1915 Boulton initiated proposals for the closer association of the two banks, and, with this in view, the Alliance Bank then deposited £250,000 worth of securities with Boulton's Bank, in order that the latter might raise money on them for the former's advantage. In the summer of 1920 the amount of the securities was increased to £700,000, and it was in respect of these that the charges were made. It was alleged that the defendants used these securities for their own purposes and raised £610,000 by this means, but had credited none of this sum to the owners, the Alliance Bank. In fact, during November 1920, Moncrieff cabled to the Alliance Bank that its credit had been fully utilized. The Bank was naturally amazed, but realized that, to prevent a panic among depositors, it must co-operate with Boultons to save the situation. Boultons wrote, incidentally, to say that they would repay the £610,000 and indemnify the Alliance Bank against loss.

The prosecution claimed that Boultons had acted in defiance of their legal duties as agents for the Alliance Bank, but the reply of the defence was that the normal relation of banker and agent did not exist here, and that Boultons, being in effect partners with the Alliance Bank, were therefore entitled to use the securities as partnership property.

So strong was his case that Sir Travers sought, during the preliminary proceedings at the Guildhall, to persuade Alderman Greenaway on the Bench that there was no case against his client to go for trial, but, before he could set out this submission, the Alderman waved him aside with the remark that "It's a matter for a jury to decide." Such was the Alderman's attitude that Humphreys refused to continue his argument, saying "It would be farcical for me to do so, since you've made up your mind." At this the clerk to the Court came to the Alderman's rescue and informed Sir Travers that it was the usual legal practice to send a case of this sort to trial. "I am not asking for the ruling of the clerk on a point of law," said Humphreys tartly, and took no further part in the proceedings.

His attitude was soon justified at the Old Bailey when the case for the defence became clear. Evidence was given that Boultons had returned securities to the full amount of the Alliance Bank's claim, though admittedly these securities were not realizable. Moreover, Sir Travers elicited from a director of the Alliance Bank that his client, Colonel Cripps, was generally regarded as the "Russian partner" in Boultons, because he had spent his whole time in that country as their representative before the War: the same witness agreed also that, so far as he knew, the Colonel had nothing to do with the Indian side of the business, and that he was an honourable man who would never be a party to any fraud.

As for Moncrieff, it was shown that he had been either in India or on holiday during the period relevant to the charges and could not have been concerned in the conversion of the securities.

Thus the case against both Sir Travers's client and Moncrieff collapsed and, at the Judge's suggestion and with Sir Henry Curtis-Bennett's approval, the jury were directed to return a formal verdict of not guilty in regard to them. As the Judge said, "The jury have quite properly found you not guilty. In my view, there is no reflection whatever upon the character of either of you, and you are at once discharged." Travers Humphreys rose to make an observation, but Mr. Justice Swift refused to hear him, since there was no longer any case so far as his client was concerned. This was a very different sort of conflict with the Bench than the "brush" which had occurred between him and the Alderman in the preliminary proceedings, and it is evidently a great pity that the latter did not allow Humphreys to spare his client and the country unnecessary trouble and expense by acquitting Colonel Cripps at once.

The case against Robert Boulton proceeded for several days more, and the Judge, in his summing-up, told the jury to consider the state of the defendant's mind at the time of the transactions. Did Boulton, the Judge asked, intend to do a fraudulent thing, or did he honestly—though perhaps mistakenly—believe that his arrangements with the Alliance Bank entitled him to use the securities in his own way? The jury needed only a short retirement to find Boulton also not guilty.

Another defendant for whom Sir Travers was briefed about

this time was none other than Clarence Hatry, who a few years later was to confess his guilt to one of the worst financial frauds, and certainly the most publicly disastrous, in the history of the City of London.

The case in which Sir Travers appeared for him at the Guildhall, however, was—or then seemed to be—one of purely technical interest. The Austin Friars Investment Trust was summoned, at the instance of a solicitor's clerk, for unlawfully refusing to permit inspection of its register of debenture-holders, contrary to the Companies Act 1908. Hatry and his fellow-directors, Daniels and Dixon, who were afterwards to share his notoriety and his imprisonment, were summoned for aiding and abetting the alleged offence. The case turned on the question whether the list withheld from inspection, being one of the holders of "income stocks certificates," could be described as a register of debenture-holders within the meaning of the Companies Act. This question was being simultaneously raised in the Chancery Court, and Alderman Phené Neal, before whom the summonses came, decided to postpone them until the other Court and, following it, the Court of Appeal gave their judgments. Sir Travers did not argue the case for Hatry in those Courts, which eventually decided against his client. Even then the summonses came to nothing, for they were withdrawn on the grounds that no useful purpose would be served by persisting with them, and that Hatry and his colleagues had acted under what the Alderman called "a bona fide misapprehension." It must be said that later disclosures of their business methods tend to throw doubts on the good faith of their attitude, but nobody in 1925 anticipated the Hatry scandals of 1929.

CHAPTER NINE

THE year 1927 was remarkable for the round-up of several important gangs of forgers and blackmailers who for some time had operated with great skill and success. Sir Travers Humphreys was responsible for the prosecution in these cases.

One of the chief trials centred round a young woman of considerable personal charm, Josephine O'Dare, who for some time had been prominent in the West End of London, where she lived and entertained on a large scale.

She was charged with uttering (which means, roughly, providing and publishing) a forged will purporting to be that of an elderly Birmingham solicitor, Edwin Docker, who for some time before his death had enjoyed the more intimate privileges of her society; with obtaining money from moneylenders on the strength of this forged will; and with forging and uttering three cheques. She pleaded guilty when she was put on trial in March, but sentence was not passed on her at once, pending the trial of other members of her gang. Sir Travers Humphreys asked for this delay in the interests of justice, since any report of her activities in the course of passing sentence was bound to incriminate other prisoners who had not yet been convicted.

He then prosecuted two men, Morton and Davis, on charges of conspiring with her. Morton confessed that he and his wife had become friendly with O'Dare, who told them that Docker had left a will in her favour, but had been too ill to have it witnessed: she pleaded that she would lose all the money unless Morton witnessed the dead man's signature on the will. After much pressure from her, he went on, he agreed to do this, but he denied that he was to receive a penny for his act. The police, however, declared that shortly after he fraudulently affixed his signature to the will, he and his wife, continuing to work under the direction of Josephine O'Dare and the associate of hers named Davis, began a systematic swindling of banks in and near London. Two other men assisted



JOSEPHINE O'DARE : The daughter of a Herefordshire farm-labourer, Teresa Skryne (under the name of Josephine O'Dare) was associated with a number of thieves and blackmailers in the West End of London and, said the prosecution, had obtained more than £20,000 from her victims. (*Photo : Keystone.*)

them by stealing letters from the letter-boxes of business firms, which contained cheques and signatures.

Davis was the real brains of the gang—as Josephine O'Dare represented its good looks—and was one of the skilfullest forgers in the country; not only could he imitate any signature so closely that it would deceive even the man whose handwriting was copied, but he was also adroit enough to pass himself off as a man of good class and reputation. Many people who came to know him under his pseudonyms of Captain Helier, Lord St. Helier, and Captain Danvers, D.S.O., had reason to regret it.

Sir Travers called Josephine O'Dare as a witness for the prosecution, and asked her what instructions she gave Davis about forging the will. She replied, "Oh, I just slipped the will to him in a restaurant. I said nothing: it wasn't necessary. He knew what was wanted!" She was a most truthful witness, though a very dangerous woman, Sir Travers has commented.

Both Davis and Morton were found guilty. Davis, who had several previous convictions against him for similar offences, was sent to jail for twelve years, and Morton for three. Josephine O'Dare had no previous convictions either under that name or under her real name of Teresa Skryne. It was shown that she was the daughter of a Herefordshire farm-labourer and that since 1922 she had been associated with a number of thieves and blackmailers and had obtained at least £20,000 from her many victims by fraudulent means. She was sentenced by the Recorder to four and a half years' imprisonment. She appealed against the sentence on the ground that, having given valuable evidence for the prosecution against her associates, she was entitled to expect a lighter sentence. The appeal was dismissed, the Court holding that prisoners who turn King's evidence have no right to a light punishment on that account, even though, as Mr. Justice Darling pointed out on one occasion, criminals ought to be encouraged to disclose the crimes of their associates, it being inexpedient for the State that honour should exist among thieves.

A sequel to this case came when, a few months later, Sir Travers prosecuted another gang of forgers at the Old Bailey, who had to some extent collaborated with Davis and "Josephine O'Dare." This party consisted of Owen Seymour, a French-polisher aged

twenty-nine, whose real name was Jennings, and two painters named Sinclair and Dones. Seymour, who had lost two fingers from his hand, was known to his associates as "Fingers" or as "Three-Finger Jack."

Sinclair and Dones, said Sir Travers, obtained a cheque-book from a bank by a forged request from a customer: the same day Seymour wrote out a cheque for £250 in the client's handwriting and signature, and one of the gang presented it across the counter of the bank. The cashier was about to cash it when it occurred to him to make a technical inquiry: no sooner was his back turned than the man presenting the cheque disappeared. This put the bank on the alert but, none the less, more than £400 was obtained by the gang by the same trick. Sir Travers added that the bank's experts considered these the best forgeries they had ever seen—better even than Davis's; they were such perfect reproductions of the real signatures that nobody would doubt them.

It appeared from police statements that Seymour had an excellent War record, including the award of the Military Medal and bar, but that he had already served three years' penal servitude for forging cheques in 1925. When he was arrested on that occasion, a complete forger's outfit was discovered at his house, which was described by the police as a "forgery factory." He was now sentenced to six years' penal servitude, and Sinclair and Dones to three years each: and, for the first time since the War, the London banks were temporarily rid of the constant annoyance and loss caused by these skilful, well-organized, bands of forgers.

It was now the turn of the blackmailers, a particularly dangerous and successful company of whom was prosecuted by Sir Travers at the Old Bailey in April 1927. The gang consisted of a bookmaker named Taylor, who was the ringleader; Norman Stuart, a musician; a clerk named Leonard; two other bookmakers named Tannen and Arthur Brown, and a pedlar named Maples. When the charges were first heard before a magistrate, Taylor and Leonard were still at large, and Scotland Yard issued a notice in which it declared itself "very anxious" to learn the whereabouts of the following two men:

"George William Taylor, *alias* James Dawson, George Rose and Stuart, a man of Jewish appearance and usually well-dressed,

aged thirty-nine; height five feet nine inches; fresh complexion; dark brown hair, thin on top; hazel eyes, with a peculiarity in them which suggests a squint; well built. He speaks several languages and talks quietly. May be growing a moustache. Wears a trilby hat and a dark lounge suit. Was born in Egypt of British parents, and has often visited Monte Carlo and the Continent. Uses good-class cafés and restaurants.

"Frank Leonard, *alias* Richards, of Jewish appearance, said to be a native of Leeds, aged twenty-five; height five feet five inches; sallow complexion; brown hair; eyes grey; small build; has only front teeth in upper jaw. Dress, dark-blue raincoat, double-breasted brown lounge suit and trilby hat worn well over the eyes. Large scar on right side of neck, and scar on back of left hand. Uses good-class cafés and billiard-halls."

Reading these descriptions, one notices how very much better Scotland Yard was able to describe its absent enemies than most of us could describe our everyday friends, while there is a superb revelation of official courtesy in the phrase, "Hazel eyes, with a peculiarity in them which suggests a squint." Most people would have said, quite rudely, that Taylor had green eyes and a squint. Politeness apart, the descriptions were effective, and, when Sir Travers opened the trial at the Old Bailey, both Taylor and Leonard stood in the dock with their associates.

The prosecutor in the case was an elderly Army officer, who had been blackmailed of no less than £10,000 by the gang in the past three years. At the request of the Lord Chief Justice, his name was suppressed by the reporters, and he was referred to throughout the trial as "the Captain."

It appeared from Sir Travers's opening speech that in November 1923 the Captain came to London on a visit from the country, went to a theatre, and there met Norman Stuart, the musician. A fortnight later Stuart took him to a set of rooms in Shaftesbury Avenue and, after they had been there a few minutes, Taylor entered with another man and, professing to detect something wrong, said to the Captain, "What's happening here? What are you doing to my brother? I'll have to call the police." The Captain protested that nothing had happened, but Taylor again threatened to call the police unless he was instantly paid fifty

pounds for his silence. The Captain at once wrote him out a cheque for that amount, thus placing himself irrevocably in the blackmailer's hands.

Shortly afterwards, Taylor and his companion called at the Captain's house in the country and told him that Norman Stuart had been forced to leave his job on account of the scandal and must go to Algiers: he needed money for the journey, they said. The obliging Captain then gave them £95 for Stuart's fares and outfit, and a few days later, in answer to renewed threats of a public scandal, he paid them another £81.

Next month he handed over a further £120 because Taylor declared that he and his wife were being turned out of their rooms in Shaftesbury Avenue, again because of the scandal of which the Captain was the cause. Then Taylor's wife—poor, frail, non-existent creature—died and the remorseful Captain wrote out a cheque for £250.

Leonard was his next visitor, and frightened the Captain into paying him £50. Various other demands on him were made successfully by Leonard and Taylor, and then, in July 1925, a new turn was given to the screw. The Captain was visited by another of the gang, Maples the pedlar, who passed under the name of Ferguson. He professed to be Stuart's father and to be horrified to hear that the Captain had paid hush-money to his son and his associates: this, the good old man said, was nothing more or less than blackmail. Heartbroken, he asked the Captain for £200, to send his son away to Australia, where he would no longer be able to pester his benefactor and bleach his father's hairs. No sooner had the silly victim paid over this cheque than he learned that Stuart was unwilling to go to Australia, preferring exile in the United States: the Captain instantly gave the outraged but helpless father £61 to pay the difference in the fare.

A new line of country was then opened up by the gang. Tannen, one of the bookmakers, called on the Captain and sent in his name as "Detective Lynch of the Metropolitan Police." He regretted very much, he explained, having to trouble the Captain, but he had been sent down from Scotland Yard to make inquiries. As a result of their conversation, a cheque for £1,000 passed into the sham detective's hands. Alas, only three days later another of the

gang arrived and produced a couple of draft letters, one addressed to the Commissioner of Police and the other to a personal friend of the Captain: the contents of these drafts so frightened the Captain that he wrote out a cheque for £2,000 to prevent their being sent.

While the wretched fellow seems still to have believed in the good faith of all his previous visitors, from Taylor to "Detective Lynch," he realized that he was now being approached by genuine blackmailers, and he went abroad for a time. But even while he was there, he found no peace; for yet another member of the gang, Brown the bookmaker, called on him and sent in a card on which was inscribed:

"Detective Benshaw from Scotland Yard,
Shadowing Blackmail a Speciality."

It appeared that this detective was tracking down the scoundrel who had recently bled the Captain of £2,000, and he now, on receiving £1,400 from him, undertook to "square the matter up" for him. Unfortunately, as he came to tell the Captain a few weeks later, he had been unsuccessful; but, because he felt that he owed the Captain a certain amount of assistance in the matter, he offered to consult on his behalf a solicitor who was particularly expert in such awkward cases. For this he received a cheque for £100.

After this the gang's invention seems to have flagged, for they now contented themselves with simple blackmail, threatening, for example, to publish pamphlets about the Captain if he did not continue to pay them large sums of money. Only then did he do what he ought to have had the sense to do three years before—consult a reputable solicitor, who at once put the matter before the police.

In cross-examination by the prisoners' counsel, the Captain continued to deny, as did Norman Stuart, that there had ever been anything improper in their relationship. The Captain admitted too that neither Stuart nor the bogus detectives had used any threats against him. These two points were adopted by the prisoners as their main line of defence. They denied that there had ever been any question of blackmail or any grounds for

attempting it: the fact was, they explained, that the Captain had a reputation as a very generous gentleman and they had merely appealed to him for free and unconditional gifts!

The Lord Chief Justice, summing up, showed himself little moved by this ingenious story. He reminded the jury that it was not necessary that a man should himself utter a threat for him to be guilty of conspiring to obtain money by threats. All who took part in any way in such blackmail were equally guilty of the offence. When the jury returned a verdict against all the prisoners, the Lord Chief Justice said that it was the worse case of its kind that had come to his knowledge in over twenty-five years' experience at the Bar and on the Bench. He hoped that in future people who had been tortured in the same way as the Captain would come forward at once and lay the facts before their solicitors or the police: they could, he was sure, rely on the discretion of the Press to suppress their names in such cases as came into Court, and so help to stamp out one of the worst pests of contemporary civilization.

For the safety of the public and as a deterrent to blackmailers, he went on, he had decided to sentence the prisoners to long terms of imprisonment. Taylor would go to penal servitude for life; Maples for fifteen years; Stuart for twelve; and Leonard and Tannen for ten. Brown—to whom the police paid the dubious compliment of saying that he was a highly efficient burglar by occupation but had never been involved in blackmailing before—got off with the lightest term, eight years.

It will be recalled that, in 1925, Sir Travers prosecuted a number of Communists for offences against the State. In 1927 he was called on to lead for the Crown in two more cases involving members of that party. The first was the prosecution of William Paul, the editor of the *Sunday Worker*, a weekly Communist periodical which claimed a circulation of 100,000 copies, for publishing defamatory libels concerning the Metropolitan Police. The libel, which appeared in February, 1927, ran thus:

THIRD DEGREE METHODS TO EXTORT CONFESSIONS FROM CLASS-WAR PRISONER

FILTHY CELL. NO BED

Sunday Worker Special

Third degree methods are being used by Scotland Yard to extort a confession from Nathan Dean, a class-war prisoner in Pentonville Gaol, the *Sunday Worker* learns from a reliable source. Dean, who is alleged to be a Communist Party member, is serving a six-months' sentence. As a "political," Dean receives special treatment, which means that during the month he has been in prison he has been on bread and water diet. His cell is in a filthy condition. He is not allowed a mattress and has to sleep on the floor. No doubt this is done to make him more amenable to the "third degree" inquisition, but it is far from achieving its end.

Although suffering in health, Dean sends greeting to the workers, both British and Chinese, who are struggling for the overthrow of capitalism.

Sir Travers pointed out that there was not an atom of truth in this article. Dean had been convicted under the Aliens Act for having an irregular passport which he had stolen, and the statements about his diet and the state of his cell were all inaccurate. When these facts had been brought to the notice of the *Sunday Worker*, it had published a partial recantation a fortnight later:

THIRD DEGREE METHODS

With reference to the case of Nathan Dean . . . we are informed that some inaccuracies appeared in the report. The statements in particular that, during the month he has been in prison, he has been on bread and water diet, that his cell was in a filthy condition, that he was not allowed a mattress and has to sleep on the floor, are not in strict accordance with the facts. Dean was for the first month under the usual prison regime and no accusation is made against the prison authorities and their methods.

As to the police, they used their own methods to extract information from Dean.

Two or three days later a detective-inspector called on the editor of the paper, who then wrote to the Commissioner of Police and offered to publish a further paragraph if the statement already published had not "met the matter." On 3rd April, this letter and another statement were published together, the latter maintaining that instructions had been given, after the first libel appeared,

for a complete retraction to be made: but by an error, the statement continued, that complete retraction had not been wide enough to cover the references to police methods. The *Sunday Worker* declared that it regretted this, just as it regretted publishing the original article.

Unfortunately for Paul, who said that he had not seen either of the offending paragraphs before they were printed, these piecemeal apologies were not considered adequate by the authorities. He therefore now pleaded guilty to the charge against him, and was fined one hundred pounds, while the company that owned the paper, Workers' Publications Ltd., was fined a similar sum and ordered to pay the costs of the prosecution.

Shortly afterwards, Sir Travers again prosecuted certain prominent members of the Communist organization in this country. Harry Pollitt, one of the defendants in the 1925 case, and two other men named Beech and Strudwick, all three of them members of a "National Minority Movement," were charged with libelling a seaman, David Scott, in the columns of another Communist periodical, the *International Seaman*.

Pollitt again conducted his own defence, but the other two prisoners had counsel led by Serjeant O'Sullivan, whom we have already met in the Casement trial. The prosecution was entrusted to Roland Oliver, K.C., Sir Travers Humphreys, and a woman barrister, Miss Elsie Bowerman. The "National Minority Movement," said the prosecution, had frankly revolutionary aims and desired, as stated in its constitution, to transform existing trade unions into "really militant organizations for the class struggle." This, however, was not the issue in the case.

Scott, the man dealt with in the allegedly libellous articles, was a ship's fireman and a member of the National Union of Seamen. In October 1923, when his ship was in the Black Sea, he was induced to desert by promises of good employment, and he stayed in Bolshevik Russia for three years, working as a dock labourer and living with a local woman. No marriage ceremony worthy of the name was required in Russia at that time. In December 1925 he was imprisoned by the Soviets, and the woman was sent to Siberia. After ten months' imprisonment in loathsome conditions, he was deported to Rotterdam, whence he returned to

England and reported his experiences and his disillusionment with the Bolsheviks to the National Union of Seamen.

As an answer to his statements came the alleged libellous passage in the *International Seafarer*, a periodical published by the Seamen's Section of the "T.W.M.M. and I.P.C.," initials which mean "Transport Workers' Minority Movement and International Propaganda Committee," a Communist organization. It was there stated that Scott, in association with the Russian woman, had trafficked in smuggled goods in Russia and lured foreign sailors to his home and robbed them, so that the Bolsheviks' treatment of him was fully justified.

The prosecution were able to show that Strudwick and Beech were responsible for the sales and advertisements of the paper and for its circulation at public meetings, but there was no direct evidence against Pollitt, who was nevertheless involved in his capacity as general secretary of the "Minority Movement."

The case lasted eleven days, most of them spent in hearing evidence. The defendants, who pleaded justification, called witnesses to support their charges against Scott, while the prosecution produced other people who swore, on the contrary, that he was a most respectable man. In effect, though not in law, it was Scott who was really on trial: on his success or failure to justify himself the fate of his traducers depended. This confusion was further confused by the animosity evidently existing between the National Union of Seamen, who had promoted the prosecution, and the "Minority Movement" to which the defendants belonged; and matters were made still more complicated by the intrusion of views respecting the merits and demerits of the Soviet system. One of the witnesses from Russia, by the way, explained that he was an "unbeliever" and asked to be sworn on his "honour" instead of on the Bible; as this is not a form of oath accepted by British courts, he was asked to "affirm" instead.

In the end Scott was vindicated and the defendants were found guilty. They were bound over for twelve months and ordered to pay two hundred pounds towards the costs of the prosecution.

Not for the prosecution, but as counsel for the defence, Sir Travers Humphreys was prominently concerned in a case arising out of the commercialization of greyhound racing. The Anti-

Gambling League, a Puritan body, took out a summons against the Greyhound Racing Association and against a bookmaker named Kirby for alleged offences against the Betting Act of 1853. Sir Travers appeared for Kirby.

The laws about betting in this country have always been peculiarly marked with a national characteristic which logical foreigners regard as hypocrisy, but which the average Briton proudly considers to be a praiseworthy compromise between high ideals and human nature. Thus, the Betting Act of 1853, on which the prosecution relied in this case, made it an offence for the occupier of any house "or other place" to use it for the purpose of "betting with persons resorting thereto" or for ready-money betting. But so long as the person betting did not "resort" to the bookmaker's "place," and provided that no money passed till after the "event or contingency of or relating to any horse-race, or any other race, game, sport or exercise" was decided, you could bet as much as you liked without breaking the law. The awkward thing about this was to define a "place" within the meaning of the Act.

A judgment given in 1899 laid down that even a bookmaker's umbrella might be regarded as a "place" in this sense, if it was used to indicate the "place at which the business of betting is carried on by him"—though it was not a "place" if its sole purpose was merely to show the identity of the bookmaker! Eventually, it became established that a race-course was not a "place" within the meaning of the Act, provided that a bookmaker had no exclusive right to station himself permanently on any specific, individual spot there.*

* In view of this, the notorious fluidity of welshing bookmakers might be regarded by friendly eyes as due to an abnormally conscientious desire to observe the letter of the law. Yet welshing is a legal offence, and bookmakers who receive bets at a race-meeting, and disappear when payment to their clients is due, are liable to prosecution by the police *for the theft of the stakes*. The grounds for a conviction on this offence have nothing to do with betting; the conviction depends upon the magistrate or jury finding that, at the time when the bookmaker took the money, his intention was to steal it and not to enter into a contract with its owner. The offence is thus a simple example of obtaining money fraudulently; and the fact that the occasion is a race-meeting is regarded as only an incidental circumstance. Indeed, so far as the bookmaker's intention is to make a contract with a ready-money better on a race-course or elsewhere, he has all the law on his side: because the better cannot sue for his money if he wins, the contract being unenforceable at law though not in itself illegal. On the other hand, a bookmaker cannot sue a client who makes a credit bet and loses.

The real point at issue in this case, in which Sir Travers appeared for the defendant bookmaker, was whether a greyhound racing-track, a new phenomenon in English social life, enjoyed the same implied exemption from the strict letter of the law as a horse race-course did. The Court decided against him, and his client was duly fined £5, and the Greyhound Racing Association £100. The whole "sport" of greyhound-racing was upset by this decision and for a time it looked as if this new method of indulging the betting instincts of the people would have to be discontinued. A great agitation was therefore roused by the interested parties, who did not fail, of course, to claim in support of their case that, while horse-racing was notoriously the "sport of kings," greyhound-racing was above all other things a recreation of the poor.

In the following year the Race-course Betting Act became law, but it did not touch the legal position of betting at greyhound tracks. It laid down decisively, however, that nothing in the Betting Act of 1853 should apply to any "approved race-course," which meant any race-course for racing with horses, to which a certificate of approval had been issued by the Race-course Betting Control Board. While the main purpose of the new Act was to legalize the totalisator on such courses, it incidentally not only accepted the existence of bookmakers on such race-courses, but actually insisted that, before a certificate of approval could be issued, the race-course authorities must provide a spot where bookmakers could carry on their business and to which the public could resort to bet with them. However, this Act neither referred to greyhound tracks nor legalized betting at them.

The next stage in the matter was a judgment given by Sir Travers Humphreys himself, as a Judge, in 1931, in which he said that "I do not think that dog-racing, any more than horse-racing, can be described as a game of chance." This was important, because the legal definition of prohibited gaming includes two features among others, first, the act of wagering and, secondly, doing this at a game or pretended game of chance. This decision raised the hope of the greyhound exploiters that they might expect soon to be placed on an equality with race-course owners. Their hopes were soon dashed by the judgment in another case heard in 1932, Shuttleworth *v.* The Leeds Greyhound Racing Co.,

which decided that totalisators were illegal anywhere except under the Race-course Betting Act of 1928, which, as we have seen, applies only to horse-racing. This decision threw the fat in the fire again, and many fruitless devices were attempted to avoid the application of the law. At last, however, after an adventurous passage through Parliament, the Betting and Lotteries Bill of 1934 became law. It authorized the establishment of totalisators at dog-racing tracks as on race-courses, and so ended the long controversy.

Much more important for the welfare of the nation were the issues involved in a case where Sir Travers Humphreys prosecuted George Hansen and Wilfred Francis McCartney at Bow Street in November and December 1927 for "collecting information calculated to be useful to a foreign power and prejudicial to the State," in short, for spying.

George Hansen was described as a German student of twenty-four, and McCartney, who was an Englishman five years senior to him, as an underwriter. At the outset of the trial, Sir Travers, while deprecating the idea of cases being generally heard *in camera*, said that some of the evidence in this case ought not to be publicly heard, in the interests of the State.

McCartney, he went on, who also went under the name of Hudson, had been a member of the Communist Party of Great Britain for the past six months. The matters which led to the trial had first been reported to the police by a Mr. Monkland, an underwriter at Lloyds, who had met McCartney a few times and was asked by him, in March 1927, to provide him with information about the shipping of arms to countries bordering Russia. As a member of Lloyds, Mr. Monkland might be expected to have access to this sort of information. McCartney told him that he was acting for the Soviet Government and gave him a questionnaire consisting of thirteen questions, to which answers were required. It was at once obvious to Mr. Monkland, Sir Travers explained, that he was being asked to betray his country; he therefore got in touch with the authorities and received instructions from a Civil Servant, whose evidence, by the way, was afterwards heard *in camera*.

At the end of March McCartney gave Mr. Monkland a letter

signed, "H. K. Johnson," dealing with contracts to be supplied at certain given rates and continuing, "Now, with regard to M 2 . . . Tell him to collect all the material he can possibly get and then come and see me, and I will tell him what I consider it will be worth. From your description of him, I have great hopes that he will become one of our most important men."

McCartney had already told Mr. Monkland that he was M 1 and Mr. Monkland M 2. Sir Travers recalled that in Dickens's *Tale of Two Cities*, the revolutionaries were known as Jacques 1, Jacques 2, and so on. McCartney admitted that the same principle was being followed by his employers, all of whom were known as various Johnsons.

One of the things McCartney specially asked Mr. Monkland to obtain for him was a secret book relating to the training of Royal Flying Corps personnel. As this book was about to be revised, the authorities instructed Mr. Monkland to show it to McCartney. A few days later, however, McCartney himself told Mr. Monkland that the book was due for revision and useless to him, thus revealing the existence of another inside channel of information. Letters which passed between Mr. Monkland and McCartney were opened in the post and photographed. Some of these dealt with the payments promised to the former, which, McCartney pretended in his letters, were due in respect of dealings with an imaginary diamond merchant. Referring on one occasion to his employers, McCartney wrote, "So sympathetic are they that I am remitting a considerable advance through the head of your firm. I should advise you to take to our friends all the information you have—not necessarily all the diamonds on the Rand, but all the good ones."

Later Mr. Monkland, in answer to another questionnaire, the contents of which were not mentioned in open court, told McCartney that he thought he could get arms shipped to Russia; and, acting always on official instructions, he continued to give McCartney pieces of information from time to time. Against this, McCartney was obliging enough to assure Mr. Monkland that he could get anybody a passport for £50, which sum included provision for the return of the application form and so made it impossible to trace the origin of a false passport. This boast, said

Sir Travers, appeared to be justified, since the issue of a passport which McCartney himself had obtained in this very year in the name of Hudson, was not entered in the files of the Passport Office.

McCartney, it was shown, had watched Air Force manœuvres on Salisbury Plain and collected there a considerable amount of information which he wrote into a pocket-book, presumably for the information of his foreign employers. While under police observation he was seen to enter two typewriting offices in Edgware Road to have some documents typed. At one of these he made the typist remove any paper from her machine which might allow the contents of his document to be discovered, but at the other the girl kept a carbon copy, which showed that the document dealt with payments expected from a Mr. Johnson in Berlin. McCartney was a clumsy spy.

In November Mr. Monkland went by arrangement to a café near the Marble Arch to meet Hansen, who was apparently unknown by sight even to McCartney. Mr. Monkland and Hansen each carried a red book as a means of mutual recognition and, after a short conversation, they agreed to meet again next day at the Hampstead Tube Station, where McCartney was also to be summoned. Mr. Monkland, by the way, afterwards mentioned in his evidence that the red-covered book which he chose to take with him was a copy of Upton Sinclair's *The Spy*—it struck him, he said, as a most appropriate volume—but Hansen, who was typically German in his lack of humour, rebuked him for bringing a book with so incriminating a title. The police, who had been informed of the intended meeting by Mr. Monkland, followed Hansen when he left the café, and noticed with some satisfaction that he went home by a most circuitous route, obviously with the intention of throwing any shadowers off the trail. Next day Mr. Monkland, Hansen and McCartney arrived at Hampstead, each carrying a red book. McCartney at last entered the station, but Hansen preferred to stay in a café which overlooked the Tube entrance. This precaution, however, did not help him, for both the spies were arrested.

Sir Travers pointed out to the Court that the fact that Hansen and McCartney had apparently never met until their arrest did not affect their alleged guilt, since it is not necessary in law that people

who are conspiring together for a common purpose should be personally acquainted. Both prisoners were committed for trial, and the case came on at the Old Bailey in January 1928, when Sir Travers was led for the prosecution by the Attorney-General, Sir Douglas Hogg, who is now Lord Hailsham, the Lord Chancellor.

Mr. Monkland, giving evidence at the Old Bailey, stated that he had been told by McCartney to take information direct to the Soviet Embassy in London in case of emergency, and added that, on the night when "Arcos"—the Soviet Trading Agency—was raided, he received a telephone message from McCartney, warning him to destroy any incriminating documents. The public were then excluded from the trial for nearly two hours while certain evidence was given, but after this McCartney entered the witness-box and declared that he was engaged in journalistic work and that Mr. Monkland had offered him pieces of information at a price, in order that he might get "scoops" for his paper. He categorically denied the allegations made against him by the prosecution, as also the writing of the questionnaires and the letters which were attributed to him.

The Attorney-General, hearing these denials, then asked him to write down the following letter: "My dear Mother, I arrived safely after a tiring journey from Russia. Your message was a complete surprise to me, Mac." When McCartney finished this dictation, the Attorney-General pointed out that the prisoner had spelt the word "complete" as "compleat" both in this letter and in the questionnaires. (It may be recalled that a similar stratagem proved, in the course of the famous Parnell inquiry in 1889, that Richard Pigott had forged the letters attributed to Parnell, while Voison's spelling of "Blodie Belgium" led to his conviction in 1917 of the murder of Emilienne Gerard in Charlotte Street.)

When Hansen's turn came to give evidence, he said that he was a student, that he had never seen McCartney, and that he met Mr. Monkland in order to obtain information to help a German friend, a Dr. Odenbach, who was in England writing a book about disarmament. Unfortunately for him, the name of no Dr. Odenbach existed on the official register of aliens, according to the evidence

of a police-inspector who was called to testify to this point. Hansen's counsel replied that, if—as his client now feared—Dr. Odenbach were a spy, he would either not register with the police or, if he did, would not give his real name to them.

The Lord Chief Justice, in summing up, pointed out that, as Hansen had been arrested in November but was not put on trial until January, he had had plenty of time to try to get into touch with his mysterious compatriot in order that Dr. Odenbach might come forward and clear him of the charge of being a spy; but he had not adopted this obvious course. The jury took only a quarter of an hour to return a verdict of guilty against both prisoners on all counts of the indictment. Sentence of penal servitude for ten years was passed on each of them, and the Court of Criminal Appeal dismissed their subsequent appeal against conviction and sentence.

Sir Travers participated in another trial this year on charges brought under the Official Secrets Act. This time, however, he appeared for the defence. His client was Colin Mayers, a retired lieutenant-commander in the Navy, who was charged with obtaining "for purposes prejudicial to the safety or interest of the State, certain plans, sketches, documents and information which were calculated to be, or might be, directly or indirectly useful to an enemy." The Solicitor-General led for the prosecution.

It appeared that Mayers had been instructional officer and senior submarine officer at Gosport, and commanded a submarine there. Retiring from the Navy in the present year, 1927, he at once entered the employment of Messrs. Vickers; and—this was the burden of the charge—he took there with him plans relating to certain submarines. The plans were missed by the naval authorities; they questioned Mayers about them, and he raised suspicion against himself by not stating what he had done, and why he had done it. A good deal of the trial was heard *in camera*, because the plans involved were very secret.

By Sir Travers's skilful handling of his case, it became apparent that Mayers had acted foolishly rather than with any wrong intent. The plans in question were to a large extent his own handiwork, and he had taken them with him to Messrs. Vickers in order to make researches for improving submarine construction,

a task in which he was to be aided and encouraged by the Admiralty. Sir Travers called numerous witnesses to testify in his client's favour, and, in the course of the trial, advised him to plead guilty to minor technical charges: whereupon the Solicitor-General withdrew the graver charges.

The Lord Chief Justice, addressing Mayers after a formal verdict of guilty was brought in, said, "You have the most remarkable testimonies not only to your ability and your technical skill but also as to your character, and I am not going to suppose for a moment that, in retaining possession of these documents . . . you had any purpose at all that was prejudicial to the interest or safety of the country." He then bound Mayers over in his own recognisances to come up for judgment if called upon, which meant in effect that no sort of punishment would be imposed.

Sir Travers Humphreys fought another interesting case for the defence soon after this, when he appeared for Ronald Rose, a Cambridge undergraduate, on a charge of manslaughter. The facts were generally admitted by both sides, and were as follows. Rose was driving back to Cambridge one evening in October 1927, from a football match at Eton, with a friend as passenger. They dined at St. Albans and picked up another undergraduate; then Rose drove quickly along the Great North Road in order to reach his college by midnight. There was no suggestion that he or either of his companions was drunk. Outside Baldock a bicyclist suddenly emerged from a side road: Rose put on his brakes but the greasy state of the road caused the car to travel some distance before stopping. The bicyclist was killed. It was agreed on both sides that the Great North Road ran straight at this point and had very few side-turnings; also, that the turning from which the bicyclist had come was not indicated by any warning signs. There was, of course, the usual discrepancy between the prosecution's and the defence's estimate of the speed at which Rose was travelling. Witnesses for the Crown put it at over fifty miles an hour, while Rose and his friends preferred the more modest estimate of about forty.

The prosecution said that Rose was guilty, because he had been driving too fast for safety. The defence, in which Sir Travers was led by Sir Henry Curtis-Bennett, K.C., argued that Rose's

speed at the time of the accident was not the real point at issue, and that, since no other offence was alleged against him, the manslaughter was purely technical. It was mentioned that Rose, who bore an excellent personal character, hoped to enter the Guards, and that a term of imprisonment would be fatal to this career. Mr. Justice Talbot, however, sentenced him to six months' imprisonment. Rose appealed, and his counsel succeeded in persuading the Court of Criminal Appeal to subtitute for the previous sentence a direction that Rose be bound over for two years and disqualified from driving a car during that period.

Sir Travers Humphreys conducted the prosecution in two notable Income Tax cases this year. In the first, which was opened by him at the Old Bailey in March 1927, a costumier named John Radford was charged with defrauding the revenue of £4,173 during thirteen years before 1921. In general, it may be mentioned, the Inland Revenue authorities do not raise matters which have occurred more than six years previously, but this limitation does not apply to criminal acts, such as were charged against the prisoner in this case. Originally Radford's former partner was also indicted, but the charge against him was withdrawn owing to the serious state of his health, which made him incapable of giving evidence. This fact turned to some extent to Radford's advantage, for, after the jury had returned a verdict of guilty, the Judge, Mr. Justice Branson, said that, in view of his partner's absence and of Radford's previous good character, he would not sentence him to imprisonment but bind him over to come up for judgment if called upon. Needless to say, the prisoner had to make good his liabilities to the Inland Revenue Department.

In a similar prosecution, Thomas Carsberg, a publican, was found guilty of defrauding the Inland Revenue of no less than £7,900. He was ordered to refund this money, to pay a fine of £1,000 and to be imprisoned for six months in the second division.

A clergyman whom Sir Travers described as "leading a Jekyll and Hyde life" was prosecuted by him at the Old Bailey at the beginning of 1928. He was the Reverend Francis Bacon—though, said Sir Travers, he was unworthy of a name so distinguished in British history—and he was charged with conspiracy to solicit and incite women to procure miscarriages. Sir Travers told the

Court that Bacon had for many years carried out the onerous duties of a clergyman in the East End of London, but for the past ten years, he had also been associated with a woman, Anne Bolton, who was charged with him, in conducting a firm under the name of "Dr. Hannah Brown" which sent out letters offering medical treatment to women, though specifically refusing to supply this treatment to pregnant women. Sir Travers pointed out that the wording of the letters was a camouflage calculated to invite the attention of precisely such women, as also was the firm's announcement that it destroyed all letters from its clients, together with their names and addresses, within a month of their receipt. Bacon, it appeared, conducted his department of the firm under the name of "Howard Baron," a disguise which he attempted to justify in court as being in accordance with "commercial morality."

In the course of the trial the woman prisoner withdrew her plea of not guilty, but Bacon maintained his. The jury, however, found him guilty after only ten minutes' consideration, and the Recorder, commenting that Bacon had "preyed on the agony of poor expectant mothers and jeopardized their health," sentenced him to fifteen months' imprisonment. The woman, who had acted under his orders, got six months, and the Recorder said that he hoped their fate would be a warning to others engaged in this pernicious traffic "and to the women who answered their advertisements."*

One of the most sensational murder trials of the century was that of Frederick Guy Browne and William Kennedy for the

* "It has been estimated that there are more illegal operations every year in New York and Chicago than there are children actually born in those cities. Most of these operations are performed on otherwise respectable, law-abiding, married women. Proof enough that here is another social problem that cannot be eliminated by legislation. No one wants to encourage the indiscriminate use of this grim practice. However, the lash of the law, instead of correcting the evil, only whips it into dark corners, creating a vicious class of criminal practitioners—bootleg doctors and ignorant midwives who work in dark, back-room apartments." (Footnote to *Men in White*, a play by Dr. Sidney Kingsley, published in *Famous Plays of* 1934). As was clear from the Bacon-Bolton case, just described, similar circumstances exist in England, as in other countries: the effect of the present law, which prohibits reputable doctors from performing certain operations except in desperate medical circumstances, is the same as that of other "Prohibition" legislation which disregards modern sentiment: it tends rather to increase than decrease the acts against which it is aimed, and drives them underground into an underworld of filth, blackmail and violence.

murder of Police-Constable Gutteridge. Sir Travers was responsible for the case for the prosecution. The whole affair was one of peculiar difficulty. It was only by brilliant detective work, admirably co-ordinated, that the prisoners were ever put in the dock, while the presentation of the evidence against them required exceptional ability, in view of the doubt whether certain salient parts of it would be admitted by the Court.

P.C. Gutteridge had been a member of the Essex police force for about seventeen years and was an efficient and respected officer stationed at the village of Stapleford Abbots near Billericay, an exceptionally quiet rural neighbourhood in Essex. That such a man should be murdered in such a district seemed fantastic. He was on duty during part of the day of 26th September, 1927, and part of the following night, when, at three o'clock in the morning, he had orders to meet the policeman on the neighbouring beat at a "conference point" on the borders of their two areas. The two men met, discussed their official business and parted at half-past three, Gutteridge starting off home alone on foot by a quiet, unlit country road. Just before six that same morning, his dead body was found only a few hundred yards away. He had been shot dead: two bullets had been fired into his head, one of which had passed downwards and severed the carotid artery. The other two had apparently been fired through his eyes as he lay on the ground: his face was so blackened with powder as to suggest that these last bullets had been fired at a range of no more than a few inches. A trail of blood across the road showed that he had been shot while standing at one side of it. His electric torch was in his pocket; his truncheon was in its usual place in his uniform, but he held a pencil in his right hand and his notebook lay close by. There were no signs of any struggle, though his helmet had fallen off. The mark of a motor-car tyre was visible on the bank at the side of the road.

From this scanty material, the police were able to reconstruct sufficient of the crime to establish what had probably taken place. As Sir Travers explained when he opened the case, all the circumstances showed that something had happened in connection with a vehicle—probably the motor-car of which the tyre-mark could be seen—which had made Gutteridge think fit to take particulars

from its driver but not to arrest him. The fact that he had taken out his pencil and notebook was thus explained, while, since he had not used his torch, it must be presumed that he intended to write by the light of the car's lamps. The absence of a struggle, corroborated by his failure to use his truncheon, suggested that he had been taken entirely by surprise when the shots were fired at him. The medical evidence went to show that he would have died in a few minutes from loss of blood caused by the downward bullet: why had the other shots been fired? Was it from wanton cruelty, or had the criminal been frightened of being recognized if anybody came along and Gutteridge were able to speak? If the latter presumption were correct, it suggested that the murderer might be somebody who knew and was known in the neighbourhood.

The time of the murder must be supposed to be a few minutes after Gutteridge had parted from his colleague, because the spot was on his direct way home and it might be surmised that, after his long spell of duty, he would not waste time on the way to bed. Now, if this reasoning was correct, what motor-car had been concerned in the affair? This question, Sir Travers thought, could also be answered with reasonable certainty. A Morris car had been stolen that same morning, shortly before the probable time of the murder, from a garage twelve miles away belonging to a Dr. Lovell. Its tyre fitted the mark found at the side of the road, and, moreover, the car itself was discovered next morning in London, abandoned by whoever had stolen it. Why had it been abandoned? Thieves steal cars in order to sell them: it might therefore be supposed that the thief of this car had good reasons for wishing to rid himself of it, and such a reason could be found in the fact that it was the one he was driving when he shot Gutteridge. Confirmation of this was provided by two discoveries: first, there were bloodstains on one of the running-boards, and, secondly, an empty cartridge-case was found in it, suitable for the size of bullets found in the dead man's head. This cartridge-case, by the way, was of a rare and obsolete pattern which had not been manufactured since 1914, while one of the bullets in Gutteridge's head was of a type not made since 1894.

This was not all. The owner of the car had noted the mileage on his speedometer when he put it away in the garage on the

evening before the murder: the car had travelled forty-three miles after the theft, although the direct route from his house to the place where it was found next day was only twenty-seven miles. The possible significance of this was that the thief had not dared to drive to London by the main route, which would have taken him through Chelmsford, where there was always a policeman on point-duty, but had driven by devious by-roads—among them the one where Gutteridge was killed—to minimize the danger of being stopped. Detectives experimented and found that anybody who knew the neighbourhood well would in fact be likely to choose this network of roads which, while avoiding dangerous police stations, would represent a total distance of forty-three miles. They then inquired from houses on this route and established that a car had been heard travelling along it in the early hours of that morning.

"In these circumstances," as Sir Travers told the magistrates at the South-Western police court, "you will perhaps agree that, if one can find the persons who were the occupants of that motor-car on its run that night from Dr. Lovell's house to Brixton, one has gone a long way towards solving the problem of who were the murderers of Police-Constable Gutteridge."

Unfortunately for the police, however, in the earlier stages of their investigation, they had no sort of clue to the man, or men, concerned in the crime, except that he or they must be familiar with the whole district in which it occurred. This was not much to work on. The coroner's inquest on Gutteridge ended with a verdict of murder against a person or persons unknown, and for over three months no arrest was made. There was considerable comment in some newspapers and among the public generally that the police seemed to have failed to solve the murder of even one of their own number, and wild rumours, utterly untrue, circulated about possible reasons why the police did not wish to avenge Gutteridge's death. In fact, the police were working hard the entire time, following up every trail which suggested itself to them.

In the middle of November a motor-car, recklessly driven, forced a lorry into a wall in Birmingham and did not stop. The lorry-driver took its number and reported it to the police, who soon traced it and took particulars of the driver's licence, prior to issuing

a summons against him. They then discovered that the particulars on the licence, as well as the car's number-plates, were false, but an informer, who admitted being in the car at the time of the incident with the lorry, told them that the driver was Browne and that he had a garage at Clapham. Further, the informer said, Browne had been concerned in the Gutteridge murder, in company with a man named Kennedy, who worked for him in the garage. Scotland Yard had already thought of Browne as a possible culprit in the murder, because he was a violent criminal who had worked in Essex; but there were a good many other suspects with similar credentials and, in any case, the authorities had no knowledge of Browne's present address. It is true that, in the course of routine inquiries at all London garages just after the crime, a policeman had visited Browne's, but he left without recognizing the owner or securing any information which could connect him with the murder.

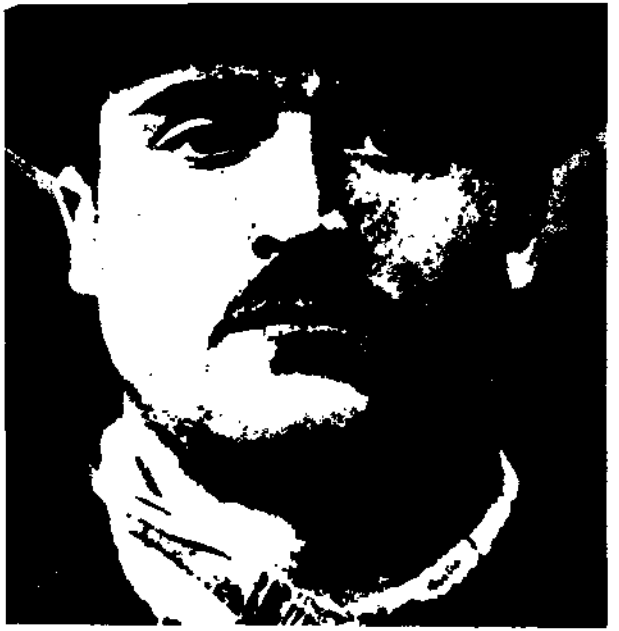
Browne—his real name was Leo Brown—was a man of great physical strength and of strong character, who was known to the police as a reckless burglar and robber, specializing in stealing motor-cars, altering their appearance and selling them or claiming insurance for them. He was something of a genius in the handling of tools. Forty-six years old, he had gone to prison several times, and it was at Dartmoor that he met Kennedy, a Clydeside Irishman ten years junior to him, who, a compositor by trade, was a thief by preference. Kennedy was a much inferior type of man in every way to Browne, who employed him as an assistant in his thefts and at the garage where they altered the cars for re-sale.

When the police went to arrest Browne, they found that he was away. He had driven down to Devonshire to meet a friend who was just being released from Dartmoor. On his return, he was seized by a number of policemen concealed at the entrance to his garage, which, on being searched, was shown to contain a small arsenal of firearms as well as a number of articles which linked Browne with both the Gutteridge crime and several later robberies. Kennedy was also absent from the garage at the time, and, happening to see it locked up with a policeman at the gate, he decided to flee with the young woman whom he had lately married. He went at once to Liverpool, and took lodgings in a house in Copperas

Hill, just behind the Adelphi Hotel, intending to cross to Ireland. At night he heard a taxi-cab draw up outside the house, and a voice directing it to go on to the next corner and stop there. Suspecting rightly that the police had tracked him down, he flung an overcoat over his trousers and shirt and went out into the street, where he was quickly challenged by a detective-sergeant. Kennedy then thrust a pistol against the sergeant's ribs and pulled the trigger, but, fortunately, he forgot to release the safety-catch and no harm was done. Like Browne, he was formally charged with being concerned in stealing a Vauxhall motor-car in Tooting a couple of months previously, but, when he was brought to London and taken to Scotland Yard, he was asked if he cared to make a statement about the murder of P.C. Gutteridge. After consulting his wife, he made a very long statement which, so far as it was true—and much of it certainly was—cleared up the whole matter.

It confirmed the police theory that Gutteridge had stopped the stolen car to take particulars from the driver, and it then went on: "The policeman was in the act of writing when I heard a report, quickly followed by another one. I saw the policeman stagger back and fall over the bank at the hedge. I said to Browne, 'What have you done?' and then saw he had a large Webley in his hand. He said, 'Get out quick.' I immediately got out and went round to the policeman, who was lying on his back, and Browne came over and said, 'I'll finish him,' and I said, 'For God's sake don't shoot any more; the man's dying.' The policeman's eyes were open, and Browne, addressing him, said, 'What are you looking at me like that for?' and, stooping down, shot him at close range through both eyes. There were only four shots fired. Browne then said, 'Let's get back to the car.' We had driven close to the bank, and backed out a little, and drove on in the direction of Ongar. He gave me the revolver, and told me to load it while he drove on. I loaded it, and in my excitement I dropped an empty shell in the car. The other three I threw away into the roads." The rest of the statement described their return to London and his subsequent adventures: he claimed that he had been intimidated by Browne during the whole of their acquaintance.

There was one paragraph in the statement, however, which caused the police some difficulty. Kennedy spoke of himself and





TWO MURDERERS

Frederick Guy Browne (left), teetotal, non-smoking murderer of P.C. Gutteridge, described by witnesses as a mechanical genius. William Kennedy (right), his hard drinking, utterly worthless accomplice. Browne's contempt for Kennedy, both before and after the latter's betrayal of him, showed the two men's complete difference of outlook and character.

(*Photo : Topical Press.*)

Browne having first gone to another house, which he described, to steal a car and being frightened away by the barking of the dog. Now this house did not keep a dog; the police, therefore, began to fear that Kennedy's statement, apparently inaccurate in this minor detail, might turn out to be inaccurate about more important things. But it was discovered that a strange dog used to visit the house nightly to inspect the dustbins, and so fresh proof was provided that Kennedy's statement could be relied on.

It was, of course, legal evidence only against Kennedy, who had made and signed it, and not against Browne. Throughout the various stages of the trial, both the Judge, Mr. Justice Avory, and counsel were careful to remind the jury of this fact. Whether or not any jury could be counted on to observe this advice, is another matter. The Judge pointed out in his summing-up that the evidence against Browne consisted of two main points: first, that he admitted the possession of the revolver from which the fatal shots were fired (though he claimed in evidence that Kennedy had probably borrowed it for the occasion), and secondly, that several instruments were found in his possession which were recognized by Dr. Lovell as part of the equipment stolen at the same time as his car. It should be mentioned that expert evidence showed that Browne's revolver, and no other, must have fired the shots. The contrast between the ballistic experts in this case and those in the Sacco–Vanzetti case in America is very much to the advantage of the former.

Browne's defence was a complete denial of the charges. He explained certain mis-statements of his to the police when he was arrested as due to the fact that for some time he had been engaged in the secret purchase and sale of firearms, and did not wish to incriminate himself. Further, he suggested that Kennedy had taken the revolver with which Gutteridge was shot and that Kennedy's account of the crime might be correct, provided some other name was substituted for Browne's in it. He declared that he had bought the various instruments and bandages, which Dr. Lovell had identified, at various places and at various times; and that, on the night of the murder, he had slept at home and not gone out.

Throughout his long spell in the witness-box Browne showed

his contempt for his fellow-prisoner. Himself a teetotaller and a non-smoker, he denounced Kennedy as a shameless drunkard, which was true. Many people in court feared that his demoniacal temper might lead him to assault Kennedy in the dock, just as Fowler had attacked Milsom in the horrible Muswell Hill murder trial in 1896.

The case against Kennedy was on somewhat different lines. He did not go into the witness-box, as Browne did, and so could not be cross-examined on his written statement or on other points in the evidence. He made a statement from the dock, however, in which he declared that "I had not the slightest idea on the night of the murder that Browne was carrying a revolver. The first intimation I got of it was when I heard the first two shots fired. It was too late then for me to do anything to stop it." As for the reloading of the revolver, to which he had admitted in his written statement, he said, "Browne was in an absolute mad frenzy. It was that which caused me to reload the revolver. I was so terrified by the way he acted and spoke, and I was in such a state of mental agitation by what I had seen, that I really did not know what I was doing." And he denied having tried to shoot the detective-sergeant who arrested him in Liverpool: he said the revolver accidentally struck a button on the sergeant's coat.

At the police court it was suggested by his counsel that the written statement had been obtained from him by pressure on the part of the police, who had kept him for hours without food or sleep; but this was disproved by evidence at the trial.

In regard to him Mr. Justice Avory told the jury that, for Kennedy to be guilty of murder, it was unnecessary that he should have known beforehand that Browne, or whoever fired the shots, was in possession of a revolver and meant to use it if he thought fit. "That is not the law. If Kennedy, at the time when that police-man was shot, knew that he was being shot, and if you are of opinion that Kennedy was a party acting in concert with Browne in shooting that constable in order to prevent their arrest or further detention, then he is liable to be found guilty on this indictment." The Judge went on to tell the jury that Kennedy's confession that he reloaded the revolver was a serious point against him. "If he was so terrified of Browne when Browne is in possession of a loaded

revolver, why did he not throw it away directly Browne handed it to him?" This was not perhaps a very convincing argument. If Kennedy were genuinely frightened, he would surely have been hesitant to bring down Browne's murderous wrath on himself in this manner; had he thrown away the revolver, Browne might have stopped the car, picked up the revolver and shot Kennedy with it, or he might have had another weapon with him in the car. Much more telling against Kennedy was the fact that he did not, in his statement, explain where the cartridges came from with which he reloaded the revolver: the presumption was that he had them in his own pocket and, therefore, had been well aware all along that firearms might be used on the journey.

The reason why he did not go into the witness-box, it is said, is that Browne's counsel had hinted that, if he did, his past record would have to come out in cross-examination—and this record included a conviction for carrying a loaded revolver: moreover, he was known to have boasted to his friends of having shot down "Black and Tans" in the Irish troubles. Far from his having been unaware of Browne's intention to use firearms, it is possible that Kennedy himself fired two of the shots into Gutteridge's face.

The jury were absent for two hours before returning a verdict of guilty against both men. Asked if they had anything to say before sentence was passed on them, both made statements which seemed strangely out of tune with their characters and their lives of crime. Browne said, "I am quite content to leave it that I am not guilty according to the One above, Who alone can know; but the Court says I am guilty. I am quite content. My conscience is clear." Kennedy said, "Nothing I can say will alter the verdict. It was pre-ordained. It was Fate, and you, however fairly you have tried the case, and the jury are mere instruments of that Fate. I speak in no mere spirit of bravado when I say that I am not afraid of death, but that I am dying willingly because I have the certain knowledge that in the hereafter I shall be united in all eternity to the one darling girl who has stuck to me through all this ordeal."

Browne attempted to commit suicide in his cell a week later, but without success. Kennedy was converted or reconciled, to the Roman Catholic Church in jail. Both men's appeals were dis-

missed by the Court of Criminal Appeal, and they were hanged on 4th May, 1928, seven months and one week after the foul murder of which they were found guilty.

There can be no doubt at all of Browne's guilt, and the jury, who heard all the evidence and watched the demeanour of both men, were clear about Kennedy's. Anybody who merely reads the evidence, but did not attend the trial, is not qualified to express an opinion about Kennedy's guilt: had he submitted to cross-examination, and had Browne told his account of the crime, it may well be that Kennedy would have been shown to be the worse villain of the two.

Sir Travers Humphreys took no part in the closing stages of the trial, though the prosecution followed throughout the case the lines on which he had prepared and opened it at the first hearing. The reason for his later absence will be found in the next chapter.

CHAPTER TEN

IN February 1928 Sir Travers Humphreys was made a Judge of the High Court. This appointment was a remarkable personal tribute, because it is extremely rare for barristers practising at the Old Bailey and engaged primarily in criminal work to be raised to the Bench. The late Mr. Justice Avory's elevation in 1910 is one of the few precedents, and it is indeed certain that one reason for his and Sir Travers's appointment was identical, namely, to strengthen the Bench in dealing with criminal offences. It is evident that a Judge who has spent most of his career prosecuting and defending men on criminal charges may be better able to deal with such cases on the Bench than another lawyer, equally judicious perhaps, whose career has been in other branches of the law.

To say that Sir Travers was raised to strengthen the Bench in dealing with criminals does not, however, mean that the object was to bring more severity into the Courts: after all, the qualifications which befit a Judge to single out dangerous criminals and punish them accordingly are also those which enable him to show mercy to men whose offences, in his expert view, are not so serious as might appear. In other words, Mr. Justice Humphreys (as we may now call him) brought to the Bench a quality of *expertise* which was most likely to lead to a reduction in the volume of crime both by severity and by mercy.

His elevation was also one of the few cases of a junior member of the Bar—that is, one who is not a King's Counsel—being made a Judge. This fact, however, is not so strange as it appears, for it is the tradition that Treasury Counsel shall not take silk: otherwise, to be sure, Sir Travers would long since have been a K.C.

His appointment was well received, though few had anticipated it. At the Old Bailey, for example, Sir Ernest Wild, the Recorder, addressed the members of the Bar before proceedings began and

said that he was sure that they and the other Judges all joined with him in expressing their satisfaction at the new appointment.

"Sir Travers Humphreys may properly be described in this court as our guide, philosopher and friend," he went on. "It is less than a week since, by a happy circumstance, he opened in this very court, as Senior Treasury Counsel, his last case as an advocate. Soon from this seat he will be giving to the Bench those admirable qualities wherewith he has adorned the Bar. Chief among those qualities, I am certain you will agree, are impartiality, conciseness, restrained humour, infinite pains, and a wide knowledge of the Criminal Law. At the zenith of his intellectual and forensic powers"—the new Judge was sixty-one years old—"he will still further strengthen the judicial bench, already strong. We, his friends, warmly felicitate him and the public."

Sir Ernest Wild's remarks were followed by the rising of Sir Henry Curtis-Bennett, who had for so long shared chambers with Sir Travers Humphreys and been so often associated with him in the courts. Sir Henry asked to be allowed, on behalf of the Bar practising at the Old Bailey, to associate himself with what the Recorder had said.

"We have, by the elevation of Sir Travers Humphreys to the Bench lost a great advocate, the greatest advocate, I think, that this court has seen for many years," he said. "But I have no doubt that the Bench and the public have gained a great Judge."

In other legal circles there was the same note of satisfaction. Thus, the *Law Journal*, in its issue of 25th February, 1928, remarked that "The appointment of Sir Travers Humphreys has come as some surprise to the profession, not because of any doubt as to his being of the stuff of which great Judges are made—the judicial quality of his mind has been exemplified on many occasions—but because his practice has been almost exclusively confined to the Criminal Law. . . . The work of the King's Bench Judges requires sound common-sense and a thorough knowledge of the rules of evidence, far more than anything else. These qualities Sir Travers Humphreys possesses in full measure."

So too the *Law Times* wrote on the same day, "The selection of Sir Travers Humphreys will clearly strengthen the King's Bench, both when sitting in the Court of Criminal Appeal and in

the Divisional Court; for his knowledge of the criminal law and of licensing law is both wide and sound, and temperamentally he is well fitted for judicial office."

On 21st February the new Judge took the oaths of allegiance and office. His first appearance was as Chambers Judge in Court No. 6 of the King's Bench, where three civil cases came before him. Chambers work is highly technical and it was quite new to him, but—though, as an old friend of his has told me, he "sweated blood" over it—he acquitted himself successfully. Many barristers looked in, as is the custom at the beginning of a Judge's term, to see how he shaped. They were perhaps gratified to hear him remark pleasantly to a young counsel, who, somewhat disconcerted by one of his witnesses' statements, had asked to be allowed to treat the latter as a hostile witness, "Mr. ——, even if a witness does not always say precisely what is expected of him, this is after all a rather inadequate reason for regarding him as hostile."

A few days later Mr. Justice Humphreys took his seat in the familiar Old Bailey, accompanied by the Lord Mayor of London, Sir Charles Batho, the City Sheriffs and the Recorder. Sir Archibald Bodkin, a colleague from the very commencement of Sir Travers's career, was present in court in his capacity as Director of Public Prosecutions. The Lord Mayor welcomed the new Judge to the City; and Mr. (now Sir) Percival Clarke, the new chief Senior Treasury Counsel in Humphreys's place, offered his congratulations.

"I am much obliged," said the Judge, "for the welcome which has been given me on my return in this capacity to the court in which I have practised for thirty-eight years. But this is not an occasion for speeches, so we will now proceed to the business of the day." Very characteristic!

The business of the day included a trial for murder. The prisoner was a labourer of thirty-nine years named Frederick Lock. He was a widower with four children and, since his wife's death, he had lived with a young woman of twenty-eight, Florence Kitching, as man and wife. The couple were on good terms until the girl's mother came from Cornwall to London and sought to induce her to return home on account of her father's illness.

This excited Lock and during the same day he killed his mistress, going then to the police and saying, "I want you. I've cut my little girl's throat."

It is not surprising that evidence was brought at the trial to show him to be in the early stages of dementia, and so not to know the difference between right and wrong. He appeared, moreover, to have no recollection of killing the woman. The jury, after only ten minutes' retirement, found him guilty but with a strong recommendation to mercy. Mr. Justice Humphreys told them that they had returned the only possible verdict, and while formally passing sentence of death, stated that the jury's recommendation would be sent to the Home Secretary and most carefully considered. Lock was reprieved.

A less serious case came before him in the following week in the King's Bench Division. It arose out of a dispute between a man describing himself as an "electro-therapist" and another man who claimed to be a plastic and cosmetic surgeon. In ordinary English, both were beauty-specialists. The plaintiff claimed copyright in two advertising phrases: "A youthful appearance is a social necessity, not a luxury," and "Beauty is a social necessity." He sought to restrain the defendant from using either of these slogans in place of the latter's customary announcement that "Beauty is the best letter of introduction." Both sides in the case seemed inclined to claim that one phrase or other, or all three, had been first employed by Socrates or Diogenes, though, as the Judge pointed out, this ascription was highly improbable in view of the notorious indifference of both philosophers to outward show as well as to social advancement.

In his judgment, Mr. Justice Humphreys said that he had to decide two questions: first, whether the phrases were original literary works and, therefore, the subject of copyright; and secondly, whether, if so, the copyright had been infringed. One of the reasons, he went on, which led him to the conclusion that they were "original literary works" was that they were so obviously untrue. Beauty, though not a necessity, was certainly an advantage, but he did not know that the same applied to a youthful appearance. His judgment was that the defendant had unconsciously taken the sentences from the plaintiff, who was therefore entitled to an

injunction restraining the defendant from using them in future—and to the nominal damages of one shilling!

At the end of this same month, March 1928, Mr. Justice Humphreys tried another murder case, which ended like its predecessor with a verdict of guilty and a very strong recommendation to mercy. Albert Symmons was charged with the murder of his wife, but there was a conflict of medical evidence as to whether the fatal wound in the woman's neck could have been self-inflicted. Again the Judge, in passing sentence of death, announced his complete concurrence with the jury's recommendation.

In the early summer he went on his first circuit as a Judge. At Leeds Assizes in May he tried an accountant, Henry Crossley, formerly a solicitor's managing clerk, for obtaining money by menaces—in plain English, for blackmail. This was a type of offence especially rife at the moment and it was expected that the new Judge would deal with it most severely. In this case, however, Mr. Justice Humphreys said that there were special reasons why he would not sentence the prisoner to a long period of penal servitude, one being that he thought that Crossley had told the Court the truth—which truth established his guilt—and that it was well to encourage the truth to be so told. He therefore passed on him the comparatively mild sentence of eighteen months' imprisonment.

Generally, however, as he stated on another similar occasion, "Blackmail will be treated by me as the abominable crime it is, so long as I sit on the Bench." In this case, which was heard at the Old Bailey, Mr. Justice Humphreys gave an interesting direction to the jury. The prisoner had threatened to expose a certain doctor for, he alleged, performing illegal operations, and, it was suggested in evidence, the doctor had actually paid out money to him to be silent. Mr. Justice Humphreys told the jury that, so far as they were concerned with returning a verdict, they must assume that the accusations made against the doctor by the prisoner were baseless; what the doctor had done or had not done was immaterial to the point at issue, namely, the charge of blackmail against the prisoner.

A month later the Judge was on circuit in Wales where, charging

a Grand Jury at Brecon, he administered a very necessary piece of advice to the unpaid magistrates who are at once the pride and the despair of our judicial system. He found, Mr. Justice Humphreys said, that certain J.P.'s seemed mistakenly to suppose that, in order to save expense, they ought to deal summarily with all indictable offences with which they had power to deal, provided, of course, that the accused consented to this course. He pointed out that this was not the true intention of the Criminal Justice Act of 1925, which requires that every circumstance in a case shall be considered and that magistrates must satisfy themselves that there is good reason for setting aside the ordinary law, whereby all persons charged with indictable offences have a right to trial by jury.

When Mr. Justice Humphreys came to open the Glamorgan Assizes at the end of June, he found that no fewer than one-third of the cases to be tried by him were charges against men and boys in respect of young girls below the age of consent. This, he said, was "a very sad thing to find in what we are pleased to think is a civilized country," but, he added, he could not help feeling, after having read the depositions that—not for the first time in his experience of such cases—"the girls are every bit as much to blame as the boys."

It may be mentioned that, when trying a case of a similar nature at York six years later, in which two young soldiers were charged, the Judge said, "It is my view that, as a rule, the girl is much more to blame than the man in these cases. This is one of those wretched young girls, unhappily notorious, who go about tempting men and hang about outside the barracks for that purpose." Possibly some of the facts which came to light in the unpleasant Hayley Morris case, in which the Judge had appeared on the side of the defence, may have assisted him to arrive at this conclusion.

More than once in these early days as a Judge, Mr. Justice Humphreys found it necessary to censure the police for methods which seemed to him undesirable in the interests of justice.

For example, he told the Manchester police in the course of a case that, "I am not sure that I approve of charging a man with a small offence and then getting him to admit others. The object of that procedure"—that is to say, the object with which the

Judiciary originally approved it—"is that a man shall come out of prison with a clean sheet. But it is *not* intended to be made an excuse for charging a man with a small offence and then piling on others with threats that, if they are not admitted by him, there might be a trial for some of them." The Judge was here dealing with the occasions where a man is charged with one case of larceny and admits in court to several others in order that one term of imprisonment shall wipe out the past. The police ought not to exercise any pressure in such a matter, even though the fear of a subsequent prosecution on one of the other charges is the motive behind the man's confession. The procedure is designed for his benefit, not to assist the police in clearing up hitherto unsolved crimes.

Closely connected with this procedure, and doubtless present in the mind of the Judge when he made his observation, is the further danger that the police may make the prosecution of a small offence an excuse for obtaining evidence on which to ground a more serious charge. Such a move is often justifiable, as, for instance, in the case of the murderers of P.C. Gutteridge, who were charged in the first place with a minor offence; but it is clearly contrary to the principles of British law that the practice shall be over-used.

Having, as Treasury Counsel, worked so often on the side of the police, Mr. Justice Humphreys refused from the outset to countenance any sort of laxity in the high standards of conduct and integrity expected from them. He was the Judge to whom it fell to try two police-constables at the Old Bailey in the autumn of 1928 on a charge of criminal conspiracy. The case against P.C. Clayton and P.C. Stevens was that they had agreed to bring false charges against a girl, named Helen Adele, in order to prevent her from reporting to a police-sergeant that Clayton had made improper advances to her. They were, moreover, alleged to have committed perjury in support of the false charges.

In summing up, the Judge warned the jury against accepting the girl's evidence without material corroboration; but, dealing with the allegations that she was an immoral character, he said that "her immorality is a matter on which I hope most of us feel much more pity than blame." Counsel had stated that the case

was of grave public importance, but he was not entirely disposed to agree with this opinion. A verdict of guilty against the two accused police-constables, he said, could not be regarded as a condemnation of the entire Metropolitan Police Force, which consisted of some 18,000 to 20,000 men. It would be absurd to suppose, he added, that none of the members of that huge Force would ever prove unworthy of it; but it was to be hoped and presumed that they were very few.

In passing sentence, the Judge told the two policemen that they had disgraced the uniform they wore and had abused the power entrusted to them for the public good, to attack a wretched girl. But, he said, he felt a certain pity for them because they were young and had hitherto borne good characters, and for these reasons he directed that their sentence of eighteen months' imprisonment should be served in the second division.

Very much more serious was a case he tried at Leeds shortly afterwards, when a number of members of the Sheffield City Police were charged with receiving bribes from street bookmakers. The evidence disclosed a lamentable state of affairs in Sheffield, and, as Mr. Justice Humphreys said, "The condition of this division of police has been shown to be rotten to the core. It is a very painful thing for us citizens who have been used to look up to the police force—and rightly so, in most cases—as consisting of men who may be trusted to do their duty, and who are well paid for doing it. Eleven men from this one division come here and give evidence, man after man, that they were bribed—and not bribed by one man alone, but in the habit of receiving a regular income from one or more bookmakers—as the price of their failing to do their duty."

Apart from the sentences passed by the Judge, the Sheffield Watch Committee dismissed fifteen policemen as a result of the facts disclosed in this case, and fined seven others.

On the other hand, a street bookmaker was charged before the Judge at the same assizes with attempting to bribe a policeman by continually thrusting a pound-note under his cape. Mr. Justice Humphreys expressed astonishment at the prisoner's stupidity. "I think you are a very foolish person with criminal instincts," he remarked. "You must be foolish indeed to keep pressing a bribe

on a policeman who has made himself perfectly clear that he has no intention of taking it." If it were not, he explained, that he had sentenced worse offenders of the same class at the same assizes only to pay fines, he would certainly have sent this man to prison. Instead he fined him £100.

It is, incidentally, of general interest that, when he was trying a man at Liverpool on a similar charge, the Judge observed that it is no offence against the law—and, in particular, against the Prevention of Corruption Act—for anybody to offer a policeman a tip in return for a courteous action; even though it is an offence against police regulations for the officer to accept it.

On several occasions Mr. Justice Humphreys has taken exception to the methods used by some police officers to strengthen their cases before these come into court. Thus, sitting at the Old Bailey, he objected to the statements of prisoners being taken down by the detective who is examining them and who then gives the statements to them to sign. This process, he pointed out, explains the curiously familiar vocabulary apparently used by prisoners who make a statement. "These statements should be the exact language of the man," he insisted. "The proper way for a statement to be made is to say to the man, 'Here is a pen and paper. Write down your statement.'" In that way, the statement would not only be in the man's own handwriting, but would exactly represent what he wished to disclose.

He severely criticized another police practice of a similar nature, which was revealed at the remarkable Marjorie Yellow murder trial at Birmingham in 1932, a case to be described later in this book. The Judge learned that copies of the evidence given by certain witnesses for the prosecution at the preliminary inquiry before the local magistrates had been circulated by the police to these witnesses, with the result that they had an opportunity to become word-perfect in their statements by the time the trial came on. One of them indeed admitted in court that he had "learned off" his evidence the night before he went into the box. Commenting on this, Mr. Justice Humphreys said, "I am censuring nobody. I am expressing only my own opinion, because I have had no opportunity of consulting my fellow-Judges on the matter; but in my opinion this practice is undesirable, for the simple reason

that, if a person has in his possession a copy of his original statement made to the police, is examined and cross-examined at the police court and then has the opportunity of reading, and does read, it over and over again before he gives evidence at the trial, his evidence before the jury at the trial ceases to be or to represent his real recollection of the original circumstances. He can only represent his recollection of that which he has been learning more or less by heart.

"I am perfectly certain that the police do not do this from any desire to be unfair to accused persons, but I suggest to them and" —he turned to Mr. Maurice Healy, K.C., the counsel for the prosecution in the case—"through you to the Chief Constable of Birmingham, that the practice may lead to unfortunate results in some cases, and that it might be well for it to be reconsidered."

It is understood that, as a result of these observations, the Home Office opened an inquiry into this and similar police methods, and laid down more stringent rules for the protection of accused persons in regard to them.

Another case in Mr. Justice Humphreys's early career as a Judge which concerned an offence by an officer of the courts was the trial at the Old Bailey of a well-known Cardiff solicitor Harold Montagu Lloyd, for the fraudulent conversion of funds entrusted to him by clients. Lloyd had built up a large practice: he earned as much as £50 a week and was implicitly trusted by his many clients. He lived, however, beyond his means and was obliged to settle no fewer than fifteen bankruptcy petitions before his final crash. This came when he "borrowed" over £1,200 from three of his clients, an action which he afterwards admitted to be improper though he claimed that it was not deliberately dishonest. He nevertheless thought it advisable to disappear when a warrant was issued against him, went to Scotland and, according to his story, proposed to shoot himself there with a gun which somebody had given him. Changing his mind about suicide, he walked to Birmingham and there gave himself up to the police.

Sentencing him to five years' penal servitude, Mr. Justice Humphreys admitted that he would have been glad to exercise mercy in this case, but he was bound to remember the interests of the public and to make an example of a solicitor who abused his

position so wickedly. He thought Lloyd's condition pitiable, but he could not overlook the fact that he had shown himself capable of robbing a client of three-fifths of his life-savings. Lloyd subsequently appealed against his sentence, but the Court of Criminal Appeal upheld it.

The Judge had himself been briefed by Lloyd, only shortly before his elevation to the Bench, in a very sensational case. Three men, two brothers named Rowlands and another named Driscoll, were charged with the murder of David Lewis, a famous Cardiff Rugby footballer and boxer. A fourth man was charged with them, but was acquitted on the ground that there was insufficient evidence against him. Each of the other three put up a separate defence, but the Judge who tried the case, Mr. Justice Wright, referred to the victim's athletic prowess and remarked, "Would he be likely to allow himself to be struck with a knife by any one of these men unless he were hampered by others?" The murder had developed out of a street fight in which all of them had been concerned. The jury convicted the three prisoners and sentence of death was passed on them. Then began Sir Travers Humphreys's connection with the case.

He was briefed by Lloyd to appear for Driscoll on the appeal, and was led by Mr. Artemus Jones, K.C., who protested strongly against the opening speech for the Crown made at the trial, in that this had accused the prisoners of being "members of a murderous racing gang, entering on a cold-blooded and concerted plan to murder or to maim the deceased, with whom they had a feud and whom they wanted out of the way." The Lord Chief Justice, presiding over the appeal, held that this over-statement was to be regretted but that the conviction and sentence must stand, inasmuch as the jury, having heard the evidence for four days, had had ample time to form their own opinion on the merits of the case.

This was not the only point of interest raised at this appeal, for it was stated that one of the convicted men, J. Rowlands, had become insane since the original trial, and it was argued that, being insane, he must not be hanged. The Court of Appeal decided that a man who has become insane since his trial is not entitled to the special treatment accorded to insane prisoners in murder cases: the Courts, they held, are concerned only with his

condition at the time of the act charged against him. But the Home Secretary always reprieves from the gallows a man who has gone mad after sentence.

Perhaps the most sensational case which Mr. Justice Humphreys tried in his first year as a Judge was the trial at Carlisle Assizes of a young Chinaman, Chung-Yi-Miao, for the murder of his wife, who was also a Chinese.

Miao, a man of about twenty-eight, had been a law student in America and came of a wealthy Chinese family of good standing. He married in America a very rich girl named Wai Sheung—who might appear attractive to Chinese eyes, but to others was extraordinarily ugly—and the marriage was regarded, by the American newspapers at least, as a romantic social event. They crossed the Atlantic for their honeymoon, going first to Scotland for a few days and then to Derwentwater, in the Lake District, and attracted much attention in the latter place, partly because they were Chinese and partly because they at once began to explore the neighbourhood.

On the afternoon of 19th June, 1928, the day after their arrival in Cumberland, Miao returned alone to the hotel from one of their walks, saying that his wife had gone to Keswick to buy warm underwear. He expected her back for supper, he said, but he ate the meal alone in her absence, and, after making a few anxious inquiries during the evening and suggesting a call to the police, he went to bed. He was still in bed when the police came to arrest him for the murder of his wife, whose body had been found about a mile away. She had been strangled with a doubled piece of cord, near a place where her husband had been seen with her the previous afternoon, the last time she was seen alive. Cord similar in colour though not in size to that with which she had been strangled was found in their room at the hotel; as also cord similar in size but not in colour. There were no signs of a struggle near the body, but the dead woman's clothes had been disordered in such a way as to suggest a murder of assault as well as of robbery and her left-hand glove had been removed, presumably for the purpose of stealing a valuable ring which she usually wore. Evidence was given that she carried jewellery worth about £3,000, some of which was said to be a present from her husband; two of her rings





MR. & MRS.

CHUNG-YI-MIAO

Photos : Daily Mirror

In New York their marriage was regarded as a romantic affair between two of the best-looking and most attractive members of the younger Chinese set. The romance ended when she was found strangled in the Cumberland Lake-District, and he was hanged for her murder.

were subsequently discovered by the police in a spool of film belonging to Miao's camera. Blood was found on her clothes, but not on his. And on the top of a cupboard in the room they had occupied in Scotland three pieces of paper were found, on which were written in Chinese characters: "Be sure to do it in the ship," "Don't do it in the ship," and "Again consider on arrival in Europe." The prosecution suggested that Miao had used these papers to draw lots for some important enterprise, perhaps the murder of his wife; he offered no explanation of the writings.

It will be clear that this was a case which depended more than usually on circumstantial evidence, for the prosecution did not claim to be able to produce any direct evidence that Miao had murdered his wife. Moreover, they could not offer any explanation as to motive. But the chain of circumstantial evidence was extremely strong.

For example, as the Judge pointed out in his summing-up, it was remarkable that nobody had seen the girl in Keswick, where Miao said she had gone, though every other journey made by the couple, or by either of them, in that short period of their stay had been observed by several other people. Against this, Mr. Justice Humphreys set Miao's explanation, namely, that she had probably been prevented from going to Keswick at all. He then commented on the curious fact of a stranger to the district, as the girl was, deciding at three o'clock in the afternoon (as Miao said she did) to make a journey of three or four miles to a neighbouring town without knowing what means of transport existed. On the other hand, Miao had said that she spoke of hiring a motor-car to go to Keswick. Then there was the odd behaviour of Miao in going to bed after making only general observations on his wife's absence; the prosecution argued that bridegrooms do not usually exhibit such stolidity.

The way in which the girl had been killed, the Judge went on, suggested that no stranger could have been the aggressor, because a bride would be unlikely to allow anybody other than her husband to come sufficiently near her to be able to pass the cord round her neck and so strangle her. Moreover, the absence of any sign of a struggle, combined with the disordering of her clothes, was more

consistent with an attempt to fake a murder of assault than with a genuine attempt of this kind. The discovery of the rings in the film-spool went against the notion that the glove had really been removed in order to steal one of them. Put shortly, the case for the prosecution was that Miao had strangled his wife and then endeavoured to clear himself of the crime by staging the appearance of a brutal murder by a stranger.

Miao's case throughout was based on the assertion that his wife was famous for her jewellery and had invited robbery by displaying it on all occasions; he also claimed that Chinese sailors had been seen in the neighbourhood and had probably followed him and his wife from the American boat.* In support of this argument, four or five persons were called by the defence, who claimed to have seen Chinamen in the district, though they admitted in cross-examination that they had seen none on the day of the murder within three miles of the place where it was done.

In regard to the missing rings which had been found in his spool, the prisoner explained that his wife had presumably put them there before going out for her last walk, in order to save herself the trouble of locking them in her jewel-case. This explanation certainly did not impress the Court.

Other points brought against Miao were his remarks when he heard of his wife's death. First, it was stated by the prosecution that, before he was told by anybody how she had died, he said, "It's terrible: my wife assaulted, robbed and murdered." How, the prosecution asked, could he suppose any of these things, unless he had prior knowledge of the state in which she would be found? Secondly, he was alleged to have said to a constable at the police station, "Had she knickers on?" Miao's answer to this statement was that he had said, "Had she her necklace on?" and that the policeman had misunderstood his words because of his Chinese accent. The policeman, however, refused in evidence to accept this correction as authentic; he insisted that he had heard Miao's remark correctly, and the Judge referred to this evidence in his summing-up.

* "The string was tied in a 'granny knot'—the sort of knot that sailors use," suggested one of the counsel for the defence.
"I hope sailors don't," remarked the Judge, a keen yachtsman.

In favour of Miao it can be said (but apparently was not said at the trial) that it is somewhat unlikely that the word "knickers" formed part of his vocabulary. His English, slow at any time (though, as the Judge pointed out, his hesitation was markedly greater in cross-examination than when he was telling his own story) was not English learned in England, but the language spoken in America; there the word "knickers" is hardly ever used and would certainly not spring to the tongue. But even if Miao may be credited with having said, "necklace" and not "knickers," the suspicion against him is not materially lessened. According to the prosecution, he was determined to stage a robbery to protect himself against discovery, and so his question about the necklace might be held to be part of this plan. The point in dispute, though not without interest was certainly not in any way vital to the prosecution's case.

Another verbal difference appeared between the prosecution and the defence. Miao was accused of having asked, "Has she gone to the place where people bathe?" This, it was held, helped to incriminate him, because her body was found near a spot where people did occasionally go to bathe—though it is not clear how Miao could have known this in the short time he spent there. His answer to this was that he asked, "Has she gone to the place where people take the bus?" and that, once more, the police misunderstood him. Whether he was right or wrong, this point was not much pressed against him, though, in a case depending exclusively on circumstantial evidence, every such point has its importance, both for the prosecution and for the defence. In any event the jury had sufficient opportunity of judging Miao's English in conjunction with the other circumstances of the case.

Mr. Justice Humphreys put the alternatives clearly before them: "Do you accept his explanation that there was a misunderstanding on the part of a number of persons; or do you take the view that he is a man who has committed a foul murder, who was clever enough to feign emotion and clever enough to try and cover up his tracks, and who has given plausible, but not acceptable, explanations of the evidence?"

The jury took less than an hour to find Miao guilty, and he was sentenced to death. He appealed and, refusing the aid of counsel,

made a very long speech in fluent English to the Court of Criminal Appeal, who, however, dismissed the appeal.

The question that strikes a student of this case is, Why did Miao murder his wife? Various insinuations were made at the trial, suggesting that the couple were not as affectionate as they outwardly appeared, but this is not usually an adequate motive for murder. The prosecution also sought to establish that Miao's financial position was bad, but the evidence brought for this purpose did not show that he was in desperate straits or that he was likely to be better off if his wife were dead. Yet, although it is always satisfactory to discover the motive for any crime and although readers of detective stories insist on this satisfaction, it is not necessary, as Mr. Justice Humphreys told the jury in this case, for the prosecution to establish motive. "There is always some reason why a crime is committed, except in cases of insanity," he told them, "but it often happens that the prosecution is unable to call any evidence as to that reason." The jury, he added, "must be satisfied of the prisoner's guilt in the same way as you would be satisfied in any important matter which arose in your own business or domestic affairs."

The jury was so satisfied; so was the Court of Appeal; and there has never been a suggestion, based on any sort of reasonable grounds, that Miao was unjustly convicted and executed.

Yet the reason for the crime remains a mystery. Quite possibly Miao's financial future as a married man was not so bright as he claimed: his wife was a modern woman and likely to refuse to conform to ancient Chinese customs in respect to her property. Or he may have feared that she could never bear him a son, a prospect which offended his ancestor-worshipping beliefs: but he too was a modern and may not have held these beliefs very strictly. The third possibility is that he was the agent of a Chinese "tong," a secret society which desired to kill his wife either for revenge against her family or for financial benefit: this explanation is extremely bizarre, but so were all the circumstances of the murder.

Less than a week after sentencing Miao to death, Mr. Justice Humphreys had to try another murder case, this time at Lancaster. A man named Henry Baguley killed his wife by shooting her with his employer's revolver. He was alleged by the prosecution to

have finished the shooting with the words, "I've done you this time, haven't I?" and, later, to have said, "I'm ready to take my punishment as perfectly rational and sane at the time." The defence in court, however, was that Baguley was an epileptic and liable to sudden seizures during which he was unaware of what he was doing. More fortunate perhaps than Chung-Yi-Miao, he was found guilty but insane and ordered to be detained at His Majesty's pleasure.

Thus ended Mr. Justice Humphrey's first year as a Judge.

CHAPTER ELEVEN

MR. JUSTICE HUMPHREYS'S second year as a Judge, 1929, opened with a murder trial at the Old Bailey. Frank Hollington, a labourer, was charged with the murder of Annie Hatton, a servant girl aged seventeen. Hollington, under the assumed name of John Dennis, had been going out with the girl for nearly a year before the day when she was found dead in her employer's kitchen. The body had been covered with a tablecloth, the hands and feet were tied with a jersey and an apron, and the place had been ransacked. The police soon arrested Hollington, and he admitted that he had staged the appearance of a robbery in order to try to shift suspicion from himself. On the other hand, he denied that he had intended to murder the girl, stating that he had done no more than strike her, as he had done on a previous occasion, because she refused to tell him about another man with whom she had been "walking out." When, this time, she did not get up again, he was terrified; but he insisted he had no idea that she was dead, for the house was dark at the time.

The jury sent in a question to the Judge after they had retired to consider their verdict. It was: "Does it constitute murder if death results from a blow inflicted without any intention to cause grievous bodily harm or to kill?" Mr. Justice Humphreys replied that, according to the law, the crime in such a case would be manslaughter only, since, to commit murder, there must be "intention," though an intention to cause grievous bodily hurt is punished as murder if death supervenes, even unexpectedly. After receiving this answer, the jury evidently changed its mind, for it returned a verdict of guilty, and Hollington was sentenced to death.

In another trial in the same court a few days later, William John Holmyard was indicted for what must be a very unusual offence, namely the murder of his grandfather. It was charged

against him that he attacked the old man in the latter's house in Pimlico, struck him on the head with a pair of fire-tongs, and so killed him.

The defence, which was conducted by a woman barrister, Miss Venetia Stephenson, raised the technical point that an incriminating statement obtained from the prisoner by the police should not be used as evidence against him, inasmuch as, Miss Stephenson argued, it had not been made voluntarily by him, but as the result of a trap laid by the police. There was, she said, no such expression in the statement as, "I desire to make a statement," but only the words, "I will own up to it." Mr. Justice Humphreys said that, if it were established that the police had laid a trap for the prisoner, or if even there were any doubt about this, he would unhesitatingly refuse to admit the statement as evidence. "I should do that," he said, "apart from any case and on the broad principle that people in this country must be tried fairly and not unfairly." But, he went on, "In my opinion there is not the slightest foundation for saying that in this case any trap was prepared or laid by the police. They acted perfectly properly."

The case proceeded with the statement admitted. Miss Stephenson then argued that Holmyard, a former drummer in the Army, had asked his grandfather, who had been kind to him, to find him a job. The old man refused, calling Holmyard a spendthrift and a rat. Trying to calm him, Holmyard pushed him back in his chair; the grandfather fell and, getting up, raised the chair and threatened the young man. As the grandfather was both taller and heavier than he was, Holmyard became frightened and used the first weapon that came to hand in self-defence. The grandfather was knocked down, and Holmyard then returned to his own house, which was next door.

The jury did not accept this explanation, and, after a retirement of three-quarters of an hour, returned a verdict of guilty. Before sentencing the prisoner to death, Mr. Justice Humphreys paid his counsel a compliment. Miss Stephenson, he said, "may feel that she has discharged her duty to her client in a manner which reflects the highest possible credit on her carefulness and her ability. It is a satisfaction to know that everything possible that could possibly be said for this young man, or done for him by

advocacy, has been said or done." One cannot help feeling that the prisoner, guilty though both jury and Judge thought him, can scarcely have shared in this satisfaction.

This was the first time that a woman barrister had conducted the defence in a murder trial in British courts, where the first women were called to the Bar only in 1922, seven years previously, and, despite the Judge's compliments, the experiment has not often been repeated. That sooner or later women barristers may compete on equal terms with men is possible, but up till now the inherent conservatism of solicitors and clients has deprived women barristers of a fair opportunity to practise.

Mr. Justice Humphreys, however, has never shown any prejudice against women's participation in the work of the courts. While in no sense a feminist, and while not subscribing to a belief in the equality of the sexes, he has at least testified to the merits of jurywomen. Thus, in 1921, when he was a Treasury Counsel at the Old Bailey, he addressed the members of the public service section of a well-known women's club, the Forum, on the duties of jurywomen. He said that their advent had not, in his opinion, led to any deterioration in the administration of justice; nor had he, for one, ever expected it to do so. In his opinion, a mixed jury was likely to return the same verdict in any case as a jury consisting of men only; at the same time, he reminded his audience that women jurors were often "challenged" and dismissed—a survival of the days when juries were not so impartial as they are to-day—in cases of a sexual character involving young girls. To this extent at least their functions were limited.

There are certain compensations attached to the fact that few lawyers are inclined to accept them as possessing a similar status to men. In a breach of promise case which Mr. Justice Humphreys tried in the King's Bench Division, he told the jury that, "It is absurd to say to-day, just as it would have been fifty years ago, that men and women should be treated in the same way. Men and women are not the same, and neither an Act of Parliament nor anything else will ever make them the same. For example, it does no harm to a man to be engaged and have the engagement broken off. Nobody thinks the worse of him. But everybody knows that a girl who is engaged to be married, and has been

congratulated by her friends, is wounded in her feelings when the man announces without reason that he has altered his mind."

In the same summing-up, he told the jury that they might well be disposed to think that the marriage, had it taken place, would have been an unhappy one, and that the plaintiff was, therefore, not entitled to damages for the loss of such a husband; "It may be that she is better off as a single woman, free to marry somebody else, than if she had married this young Lothario." The jury evidently accepted this view of the case, for they assessed damages against the defendant at the nominal sum of one farthing.

So too, when trying a case at Manchester Assizes in which a woman housekeeper to a retired grocer at Glossop sued the latter's daughter and son-in-law for slanderous gossip about her relations with him, the Judge said that he took a very serious view of the case, explaining that, "We have to realize that women who have to earn their living, very often have to live in a house alone with a man. It is always possible for people to sneer at them and to suggest that they are living immorally with the man. These women are entitled to be protected from this sort of suggestion."

The plaintiff in this case, however, agreed to accept a full apology from her slanderers, and withdrew her case, the Judge remarking that, "If it had been left to me, the damages would have been by no means nominal."

On the other hand, Mr. Justice Humphreys more than once in those days criticized the then legal doctrine that a husband was liable for his wife's wrongdoing—and, to quote one example from a case which he tried, that the husband must pay the damages for injuries caused by her careless driving of a motor-car even though he was not present when the accident occurred. This doctrine has now been overthrown by the Law Reform (Married Women and Tortfeasors) Act of 1935, and to-day a married woman is liable for her own wrongs and for her debts incurred before marriage. The old justification for the husband's liability in such cases was that a married woman had legally no separate property out of which to satisfy judgments given against her. But the Married Women's Property Act of 1882 secured her separate property, while the new Act of 1935, by abolishing the restraint on anticipation, removes one of the methods of tying up a married

woman's life interest. There is, therefore, no longer any excuse for shifting her burden in such cases to her innocent husband. True—as we have already seen in our mention of the Peel case—there are certain types of crime, such as larceny, where it is still possible for a woman to plead that she acted under the coercion of her husband and, if the crime is committed in his actual presence, this coercion is presumed.

One of Mr. Justice Humphreys's most curious cases in 1929 was the trial for murder at Norwich of a man named Benton. He was a smallholder aged seventy-one, who had spent a quarter of a century raising fruit on a holding near King's Lynn. He began to grow blind and deaf and to lose his business, with the result that his property had become heavily mortgaged. The mortgagee finally secured an order for Benton's ejectment, and a certain Williamson, who already had possession of the land, was due to take possession of the cottage on 22nd March.

On 21st March Benton fetched his gun from storage, and in the afternoon a shot was heard at the cottage. Benton then reported that Williamson had had a "bad gun accident." Williamson was found dead near the cottage with a gunshot wound in his head. The case against Benton was that he had been seen near the cottage at that time with the gun, that no one but he and Williamson had been there, and that the wound of which the latter died could not have been self-inflicted. The presumption, therefore, was that Benton had shot and killed him.

The defence alleged that the wound was an accident, caused by Williamson's grabbing at the gun when Benton was holding it. They asserted that Benton had no spite against the dead man; he was about to hand over the gun to his friend, the local constable, and, most important argument of all, he had not been near enough to Williamson to inflict the fatal wound in the latter's head. Benton was found guilty on the circumstantial evidence, and sentenced to death. His counsel applied for leave to appeal, on the grounds that Mr. Justice Humphreys had misdirected the jury. The Appeal Court dismissed the application, stating that there was no suggestion of misdirection by the Judge, that the question of Benton's guilt was eminently one for the jury to decide, that the alternative of manslaughter had been fairly placed before them

by the Judge, and that, though it was doubtless possible on the evidence to come to a more merciful verdict, the matter had definitely been one for the jury to decide for themselves.

Returning to London, Mr. Justice Humphreys was called on to try another murder case, in which Albert Marjeram, a labourer, was charged with killing Edith Parker by stabbing her. It is remarkable that this man had given himself up to the police, like many others, for the Reading shop murder in an earlier year, a crime of which he could not possibly have been guilty. Edith Parker was found stabbed on Dartford Heath, and Marjeram was arrested. He behaved in a cool and indifferent manner at the police station, and explained in a written statement how he had bought a butcher's knife for two shillings and taken it with him to the Heath. Two girls came along. "I just got up," he wrote, "and done it with the knife. She said, 'Oh!' I threw the knife away in a bush. I wandered about all day. I read the case in an evening paper. I did not know it was so bad. I only thought I wounded her." And he went on, "I forgot to add the motive. It was robbery, as I was out of work and wanted money."

The defence submitted that Marjeram was insane at the time of the murder, and called his mother as a witness. She stated that he had suffered from an abscess on the brain when he was a small child and all his life had been liable to fits of violence: he had attacked her and his brother, and had also attempted suicide. Three doctors, however, who had observed him in prison, declared that he was sane and fully conscious of his actions; and the jury, accepting their evidence, found him guilty and he was sentenced to death.

At Leeds Mr. Justice Humphreys tried still another murder case, in which William Warne, a greengrocer, was accused of killing a Bradford widow, Edith Buckton, with whom he had lived for some time and to whom he was bigamously married, his real wife being still alive. They had quarrelled and Mrs. Buckton had called in the police to remove him from her shop; a few weeks later he reappeared in Bradford and was seen staring through the window of a room at the woman. A day or two afterwards it was found that she had been brutally killed, and Warne was arrested.

He had already told his sister that, being sent for by Mrs. Buckton, he went to her house and was there insulted by her; Mrs. Buckton threw a weight at him from the shop scales, whereupon he picked up another weight and chased her upstairs, afterwards hitting her with it. "I waited to see *if* she came round," he said, "but she didn't." To the police, however, Warne declared that he could remember nothing that happened from the time the woman ran upstairs until eight o'clock the next morning; and it was urged on his behalf that he had suffered seriously in health during the War. The jury found him guilty but with a recommendation to mercy, and he appealed against sentence of death. His appeal was largely based on the claim, which had not been put forward at the trial, that he was subject to epileptic fits, during which he became insane, in that he was unaware of the nature and consequences of his acts. In dismissing the appeal, the Lord Chief Justice, Lord Hewart, commented that this plea seemed to be an afterthought: examining it in conjunction with the other evidence, he and his fellow-Judges could attach no importance to it.

Yet another murder trial was held before Mr. Justice Humphreys at Leeds in the summer of this year, when Alfred Harrison, a labourer, was charged with strangling a boy of fifteen in a shed at a recreation ground at Skipton. The boy's body was found there; his death was ascribed by two doctors at the inquest to choking following an epileptic seizure, and a verdict of accidental death was returned by the Coroner's jury. A day later, however, Harrison gave himself up to the police and confessed that he had strangled the boy.

The evidence for the prosecution depended almost entirely on Harrison's statements to the police and various friends, whom he told that, being spied upon by the boy when he was courting a woman in the recreation ground, he had hit the boy, picked him up by the throat, shaken him, and left him lying in the shelter. At the trial, however, Harrison, while admitting that this was true, denied that he wished to do more to the boy than frighten him and so prevent him from telling tales about him. Fresh medical evidence suggested that the degree of strength exercised by Harrison on the boy would not have been enough to kill a person of normal health, and the jury returned a verdict of not guilty of murder but

guilty of manslaughter. The Judge sentenced him to five years' imprisonment.

Despite all these murder trials, there seemed at this time to be an ebb in the tide of crime. The Old Bailey calendar in February 1929 was the lightest known for twenty-one years, even though it contained a murder charge, two charges of manslaughter, two of abduction, four of malicious wounding, and two of bigamy. Again, at the Huntingdon Assizes in May, Mr. Justice Humphreys found that there were no cases for him to try, and he was presented with the traditional pair of white gloves. He explained, however, in accepting this tribute, that things were not wholly as they seemed, for, he said, "I understand that early this morning a person attempted to qualify for attendance at these assizes by breaking into the Huntingdon police station. However, so long as would-be criminals confine themselves to breaking into police stations, the public can sleep in comfort."

It was soon different. Charging a Liverpool Grand Jury six months later, the Judge commented on the serious increase of cases in which knives and razors were being used as weapons. "Cases of this kind are becoming far too frequent in different parts of the country." he said. "Justice will have to be administered with a heavier hand, if necessary, to put a stop—so far as the courts can—to this very un-English form of settling disputes."

The strangest case at these assizes, however, was concerned not with knives or razors but with dynamite. William Andrew Malcolm Simms, a mining engineer, was charged with attempted murder, and it was alleged that he had tried to blow up a house with dynamite because the owner's daughter refused to marry him. As there was insufficient evidence that Simms was in Liverpool at the time of the outrage, he was discharged; but the senior medical officer of Walton jail, in Liverpool, stated in the witness-box that Simms had escaped from a lunatic-asylum and was still insane. The Judge thereupon ordered Simms to be taken into custody again, and he was removed from the court to an asylum.

Marjeram's explanation, in the Dartford murder case, that he did the crime because he was out of work and needed money, was recalled—in a much less serious case—at Leeds Assizes in March

1930, when a prisoner pleaded that he had committed a theft because he was out of work.

"I cannot accept such a plea," Mr. Justice Humphreys said. "Everybody knows that there are thousands upon thousands of perfectly honest and respectable British working-men out of employment, but they do not commit crimes because they are out of work. It may be very difficult at times for them to live on the meagre sums which are paid them, but still they retain their honesty."

At the same time, he recognized the effect of the new increase of unemployment upon crime, for, charging a Grand Jury at Manchester three weeks later, he commented on the substantial increase in the volume of crime in that district. While, he said, he saw no cause for permanent alarm, "You cannot have hundreds of thousands of people out of work without having some increase in such crimes as larceny and shopbreaking." It was, however, he added, mainly in these comparatively minor types of offence, that the increase was to be found, whereas more serious crime did not seem to be more frequent and, indeed, in many respects showed a reduction on previous periods.

Trying a divorce case at Manchester a little while later, he heard a curious plea for the annulment of a marriage. The wife in the case claimed that her marriage was illegal, because it had been celebrated at eight o'clock in the evening in a Catholic church in Tipperary. Her claim, as he pointed out, was entirely groundless. It is true that, had the marriage been celebrated in an English church at such an hour the officiating clergyman would have laid himself open to a prosecution, but the marriage would still have been legal, as it was in this case. Since it was heard, the authorized hours for marriage have been extended in England, so that it may now take place between eight in the morning and six in the afternoon, instead of being limited, as it used to be, to the hours between eight and three. The old practice, by the way, was designed to prevent clandestine marriages, more especially those which were likely to be performed in the dark: three o'clock was regarded by earlier generations as the last hour of clear daylight in winter in the North, and thus as the last moment up to which it was safe and proper to permit marriages to be performed.

A grimmer task was laid on Mr. Justice Humphreys when he returned to London, for he was called on to sit in the Court of Criminal Appeal with Lord Hewart, the Lord Chief Justice, and Mr. Justice Avory to hear the appeal of Alfred Arthur Rouse against his conviction and sentence to death for the murder of an unknown man on the night of 5th November, 1930, near Northampton. The grounds for the appeal were that the verdict was against the weight of the evidence and that, if prejudice and circumstances of grave suspicion were eliminated, there was no evidence on which the prisoner could properly have been convicted. It may therefore be convenient to see what the evidence was against Rouse.

The prosecution, which was conducted by Mr. Norman Birkett, K.C., both at the trial before Mr. Justice Talbot and on the appeal, stated that Rouse's blazing motor-car had been found in a lonely road not long after midnight on Guy Fawkes' day. In it was the body of a man who had not been identified, but who was supposed to be a tramp known to many people who used this road. Rouse was seen by two young men near the car: he passed them without a word, but one of them drew his attention to the blaze, and he said that it looked like a bonfire. The prisoner, who was a traveller for a firm of garter manufacturers, had been noticed earlier in the evening by a policeman, who saw another man in the car. After the encounter with the two youths, Rouse stopped a lorry and secured a ride to London, but said nothing to the driver of the fire in which his car was involved, though he admitted driving one of the same make. In London he told a story of his car being stolen, but gave a false description of it: he went home and, it was alleged, changed his clothes (though his wife subsequently denied this), visited a young woman in hospital who had just borne him a child, and then set out in a motor-coach for South Wales where another young woman lived with whom he was friendly and whom, indeed, he had promised to marry. Two days later he was arrested on his return to London.

He told the police that the blazing car was his and that he had given a lift to the man who was found dead in it. The car, he said, had caught alight while he was walking a few yards up the road, the cause of the fire being perhaps that his passenger had attempted

to fill the tank with petrol and that it had caught light at a loose joint and gone up in flames. Then he had run away in a panic.

Unfortunately for him, the police had found a mallet near the car which, they suggested, Rouse had used to stun the man before setting the car on fire. Further, the man was known to have been still alive when he was burnt and the position of the body which was not wholly destroyed by the flames, suggested that he had been placed in the car and had not met his death accidentally. The motive for the crime, it was suggested, was Rouse's desire to escape from his family commitments in order to begin life anew; he may have hoped that his wife would benefit by the insurance and by the generosity of his firm.

Against this Rouse's counsel on the appeal argued that everything was consistent with his client's story and that, moreover, he had been prejudiced at the trial by previous newspaper mention of his various philanderings and their results. It was admitted by all parties that the burnt car had been tampered with by newspaper photographers and others; it might well be, said counsel, that the fire had been caused exactly as Rouse declared and that the petrol on the dead man's body might have sprayed there from a faulty pipe. The prosecution had utterly failed to bring home the crime to his client, and the Judge had not pointed out to the jury that all the evidence was consistent with the man having met his death by accident.

The Court of Criminal Appeal, however, held that the evidence was ample on which the jury reached their decision and that the Judge's summing-up had been in every way adequate and even masterly. The appeal was dismissed, and Rouse was duly hanged.

It remains to some extent a mystery why a man should go to so much trouble in disguising a brutal murder as an accident causing his own death, and yet should follow it up by actions which could only bring home his guilt. Had he sought to disappear completely, had he avoided his home and the company of the two young women with whom he was connected, the motive would be plain and, what is more, he might possibly have escaped arrest and conviction. It is true that murderers of this type usually overrate their own ability, but Rouse acted throughout like a lunatic, and it may well be that he was a lunatic, though not in the legal

sense. He received a head wound in the War, and a medical report on him states that his memory was affected and that he was easily excited. One may reasonably imagine that this wound, acting on an already abnormal nature, may have accounted first for the impulse to commit a carefully planned crime and then, when it was done, for the fantastic folly with which he destroyed all his chances of avoiding punishment. There can be no shadow of doubt about his guilt.

But I shall not describe any more of the cases in which Sir Travers Humphreys sat as a member of the Court of Criminal Appeal, or the length of this book would be enormously increased.

Another notorious criminal, though of a very different type, came before the Judge at this time. Clarence Hatry whom, as already stated, he had defended on a technical charge in 1925, was brought from jail to give evidence in a case brought by a certain Penny against the Photomaton Parent Corporation, Limited. Mr. Justice Humphreys found cause to congratulate Hatry upon the manner in which he gave this evidence.

It may be mentioned that Mr. Justice Humphreys made one of his rather rare incursions into literature at this period, when he contributed a short preface to an account of the Cammi Grizard pearl robbery trial, which has been described in an earlier chapter of this book. The account in question was written by his son, Mr. Christmas Humphreys, under the title of *The Great Pearl Robbery*. The Judge pointed out that "In one respect the Great Pearl Robbery was remarkably like a modern detective story, in that the official police had very little to do with the elucidation of the mystery." He then referred to the strange way in which the pearls were eventually disposed of, and dismissed the throwing of them into the street where they might have been run over and smashed by a passing vehicle as "one of those things that no feller can understand."

Finally, he wrote this charming paragraph: "The author has suggested to me that I should vouch for the accuracy of his facts and law. I can only say that I have not discovered any misstatement of fact in the book, while, as to the law, it is notorious that learned counsel know much more of this subject than any mere Judge."

I should not, however, advise any barrister to quote this last sentence in court if he happened to find himself in disagreement with Mr. Justice Humphreys on a point of law.

These first years on the Bench had shown very plainly that Sir Travers Humphreys might be relied on to be severe when severity was called for: a series of bigamy cases, however, showed that he could also be very merciful on occasion. Thus, at Glamorgan Assizes early in 1931, a man was charged before him with having contracted a bigamous marriage fourteen years previously, and it was stated in evidence that his first wife had known of this during the whole period and had held her knowledge over him as a threat. Mr. Justice Humphreys commented on this that "Generally, I don't approve of persons being charged with criminal offences which are fourteen years old," and implemented his opinion by sentencing the man to only one day's imprisonment, which meant that he was at once released.

A case curiously similar came before him a short time later at Bedford, where a man of sixty-nine pleaded guilty to committing bigamy twenty years before. The Judge asked who had given instructions that this old man was to be prosecuted for so ancient an offence. "His own son went to Scotland Yard and laid the information," was the prosecution's reply. The Judge then passed sentence—"formal sentence" he was emphatic in saying—of one day's imprisonment and bade the prisoner, "Go away!"

And shortly after the first of these two cases a man was tried by him in Manchester for the same offence of bigamy. He pleaded guilty, but, when the Judge heard from the evidence that he had not seen his first wife for sixteen years before remarrying, and that she had not appeared until three years after the second marriage, he told the prisoner to alter his plea to one of not guilty. The reason for this was that, in cases where the spouse has disappeared for more than seven years, the prosecution has to prove affirmatively that the accused knew the spouse to be alive at the time of the second marriage. The jury upheld the prisoner's plea.

On the other hand, a self-confident young man of twenty-six, who was brought before him in York for bigamy, did not escape so lightly. The prisoner pleaded not guilty and explained that, having received a blow on the head a few years previously, he had

quite forgotten, at the time of his bigamous marriage, that he already married a wife three years before and that she was still alive and undivorced. Further, his head injury had caused him to forget his real name and to go through the second ceremony under a false one. Mr. Justice Humphreys, having listened to this explanation, gently suggested to the prisoner that his defence was tantamount to a plea of insanity at the time of the offence: if, therefore, the jury accepted the story, they might find him guilty but insane, and it would then be the Judge's duty to sentence him to be detained in a criminal lunatic asylum. The startled youth hastily withdrew his first defence and pleaded guilty without any qualification, and the Judge sentenced him to four months' imprisonment, remarking that he was "a very impudent person." It is hardly necessary perhaps to add that, as the Judge well knew, no jury would bring in such a verdict as he suggested without hearing corroborative medical evidence, but his warning to the prisoner had the desired effect.

Another strange matrimonial case came before him on 27th March, 1931, at the Old Bailey. A twenty-six-year-old Italian clerk named Martinucci was charged with murdering his wife at their flat in Bayswater by stabbing her in a fit of temper because he suspected her of unfaithfulness while he was away in Berlin.

In summing up, the Judge said, "The punishment for misconduct in this country is not death but the divorce court, though maybe this is becoming less and less of a punishment. This man Martinucci has a rather beautiful nature in some ways, because he takes a high view of the sanctity of the marriage oath. He has told you that he thought a wife was false to her marriage vow if she did no more than kiss another man, because, he said, her mind had thus committed misconduct, and she was no longer his, if her heart was elsewhere. This is not a view of the marriage vow which I should be disposed to criticize."

The jury, doubtless impressed by this summing-up as well as by the evidence, found Martinucci not guilty of murder but guilty of manslaughter, and the Judge expressed his agreement. In sentencing the prisoner to seven years' imprisonment, he told him that "I think you had terrible provocation, such provocation as the

jury have rightly regarded as reducing your crime from murder to manslaughter."

A little later, Mr. Justice Humphreys tried Yaroslav Charles, a hotel porter, and Leonard Short, a labourer, on a charge of causing grievous bodily harm to a police-constable at Thames Ditton on 25th September, 1931, with intent to murder him.

The two prisoners, both of them young men, were breaking into a sports pavilion when the police arrived and tried to arrest them. P.C. Collis was struck by Short, who then ran away. Collis ran off in pursuit but, hearing a shot, returned to the pavilion, where he heard two more shots. Charles then came out of the pavilion and threatened to shoot Collis. Another policeman, P.C. Pattenden, was found there bleeding from four bullet wounds, but, though two of them passed within an inch of his heart, he subsequently recovered. When arrested, Charles was carrying two fully loaded automatic pistols and twenty-nine live cartridges.

At the trial he gave evidence that he fired only to frighten the police and that he could not remember having shot more than once. He added that he had been drinking heavily beforehand. This evidence, however, was challenged by a curious document found in his possession, which discussed the social position of gunmen. Mr. Justice Humphreys decided that this document might be taken note of, in view of Charles's defence that he had shot the policeman by mischance. The Judge then read it to the jury, one of the passages being: "If I shot a clerk who resisted a hold-up, should I be a murderer? Certainly not. It is in self-defence. He knows that, if he resists or raises an alarm, he is committing suicide, because I only shoot for the benefit of my own safety."

Mr. Justice Humphreys asked why a man should copy out such phrases unless they represented his own views. If they did represent the prisoner's views, then this would assist the jury to decide whether the present case of shooting was accidental or if Charles had fired "in self-defence, as he calls it, because someone appears to resist the will of the gunman." The Judge went on to praise the system in this country by which policemen went about their duty unarmed. "If that state of things is to continue," he said, "the police are entitled to ask those who administer the law—

which includes juries as well as Judges—to administer it fearlessly and to extend over the police the protection of the law."

The jury found both men guilty, and, in passing sentence, the Judge observed that it was an unfortunate fact that a large proportion of the serious crime of this country was being committed by young men, and even by young men who had never before been convicted. For this reason, he explained, he did not propose to pay as much attention as he ordinarily did to the fact that neither prisoner had been in prison before; and he sentenced Charles to no fewer than fifteen years' imprisonment, and Short to five. Heavy as this sentence was, they were obviously very lucky indeed not to stand charged with murder.

Much less grave was the offence of an elderly cabinet-maker who was charged before the Judge on the same day with an assault on his son. It was clear that the sixty-year-old prisoner had been under the influence of drink at the time of the offence, and Mr. Justice Humphreys proposed to bind him over. The man's wife, however, suggested to the Judge that a condition of this merciful decision should be that her husband should never enter a public-house. With a sounder knowledge of human nature, the Judge supplemented this proviso with a recommendation that the wife should provide the man with a little drink at home.

Mr. Justice Humphreys must have been reminded of the Communist prosecutions in which he had acted for the Crown in earlier days when, at the same assizes at the Old Bailey, Frank Paterson was charged before him with "endeavouring to seduce persons serving in His Majesty's forces from their duty and allegiance, and to incite such persons to commit an act of mutiny." The charges arose out of certain articles published in the *Daily Worker*, a Communist propagandist sheet published in London. The charges were proved and Paterson was sentenced to two years' imprisonment: incidentally, he had made himself liable to a sentence of penal servitude for life. When he was removed from the dock, he shouted, "Long live the *Daily Worker*! Long live the spirit of Invergordon!"—the latter cry in reference to a recent demonstration made by a section of the British Fleet at Invergordon against cuts in their pay.

It is typical of the impartiality of British justice that, in the

course of this case, the Judge upheld an objection by the defence to a question arising out of a detective's action. The detective, giving his evidence, said that he called at the offices of the *Daily Worker* after the publication of the articles, and asked the men he found there, who was responsible for issuing the paper. To this, he said, one of them replied, "We understand that we are not required to make any reply, unless a charge is proffered against somebody." Then, the detective went on, "I said, 'I think it would be to your advantage to say, if you are not responsible.' " Counsel for the prosecution asked him what the men replied to this; and the defence promptly objected to the question being answered by the witness.

The Judge upheld the objection. It was, he said, "the principle of British justice that no statement is ever admissible against a person accused of a criminal charge if it has been obtained from him by a threat." The detectives first question, he pointed out, was perfectly in order, as was the men's reply to it. But, after that, the detective ought to have gone away unless he had a warrant justifying him in arresting somebody.

The crime-wave which had ebbed a year or two before was now once more at its full. Trying Frederick Bungay and Stanley Brown, aged eighteen and twenty-one respectively, at the Old Bailey for a smash-and-grab raid on a jeweller's shop (a charge more technically known as "breaking and entering") and, in the case of Brown, also for attempting to murder a policeman, Mr. Justice Humphreys observed once more that the more serious types of crime in the country were being committed by youths between the ages of eighteen and twenty-five. This gave point to his complaint in another trial that the Borstal authorities—Borstal is a reformatory for young criminals—while asking Judges to send young criminals to them for not fewer than three years, because any shorter period was considered inadequate to secure their moral reform, were nevertheless releasing some of their charges on undefined "compassionate grounds" long before the three years expired. In the case which prompted these observations, he sentenced two young Borstal boys who had been prematurely released, and had relapsed into crime, to eighteen and fifteen months respectively in jail. The difference in their sentences, he

explained, was to ensure that they should not leave prison at the same time and so be further linked together.

On another occasion he made a protest from the Bench about the manner in which the new Children's Courts, the purpose of which was to save very young offenders from being hopelessly ruined and contaminated by a single contact with crime, were being used to try "hulking youths of seventeen" who were not in the least likely to benefit by them. In the Judge's opinion, such youths were far more likely to be deterred from a life of crime by being brought into contact with the ordinary courts than by being treated as childish trespassers who must not be alarmed by seeing policeman in uniform.

There very sensational cases came before him in 1932. The first of these was the trial at the Old Bailey of Charles James Beale, formerly British vice-consul in Nice, for forgery. The crime concerned over ten thousand Canadian Pacific Railway shares, and was supported by forged letters and signatures purporting to be those of the owner, a wealthy old man who lived on the French Riviera. Certain other persons, named Haiat, were alleged to have sought to set up these documents as genuine; and the judge, passing sentence on Beale of fifteen months in the second division, said that the forgeries had been done by cleverer people than the prisoner. Beale, he added, must have been a party to the forgery, but his part was probably more that of a weak tool than of a principal.

There followed a case in which the whole truth has not yet been told. Mr. Justice Humphreys tried Mrs. Elvira Dolores Barney on a charge of murder. She was a woman of good family, aged twenty-six and living apart from her husband in a flat in Williams Mews, Knightsbridge, near Hyde Park. She was passionately fond of a young dress-designer, Michael Stephen, a year junior to her, though they had frequent and stormy quarrels. One evening she gave a cocktail party at her flat from about seven o'clock till half-past ten, at which some twenty-five people were present at various times. After it ended, she and Stephen went to dine at the Café de Paris in Leicester Square, and, later still, they went to a night-club, the Blue Angel, where they stayed until one o'clock. Mrs. Barney paid the bills.

About half-past four that same night shouts were heard from her flat, followed by a shot. Stephen died before a doctor, summoned by Mrs. Barney at his request, arrived. Nobody except these two were in the flat between one o'clock and half-past four. The doctor found Stephen lying fully dressed on the landing of the flat, with the revolver beside him but outside his hand and behind it. Giving evidence, the doctor said that the dripping of the blood showed that Stephen must have been standing up at the time he was shot. The witness went on to say that Mrs. Barney was distraught and could not have invented in her then state of mind a connected account of what had happened. She did, however, tell him that she was devoted to Stephen, and that she and he had been quarrelling, that she had threatened to commit suicide, that he had snatched her revolver from her to prevent her shooting herself, that she had then struggled to get it back, and that it had gone off in the course of this struggle. The rest of the vital evidence may best be appreciated from a consideration of Mr. Justice Humphreys's summing-up.

He began by describing the speech by Mrs. Barney's counsel, Sir Patrick Hastings, as a remarkable forensic effort. He was not paying a mere compliment, he said, when he called it certainly one of the finest speeches he had ever heard at the Bar. The speech would be all the more assistance to the jury because it consisted, as to nine-tenths of it, of a careful analysis of the evidence, free from anything like an appeal to sentiment.

The Judge proceeded to ask the jury to put out of their minds anything about the case they might have heard outside the court or read in the newspapers. He also explained the position of the Crown in a prosecution for murder, inasmuch as Sir Patrick Hastings had said how cruel and inhuman it was to put Mrs. Barney on trial, and had referred as if disparagingly to certain persons as "witnesses for the prosecution." The duty of the Crown, Mr. Justice Humphreys pointed out, which had been well and properly observed in this case, was to call every witness whose evidence was relevant and could throw some light on the transaction. Witnesses were not called by the Crown because it hoped or intended their evidence to procure a verdict against the prisoner; nor was it the Crown that put this woman on her trial; she was there in the

dock because an experienced magistrate, who had heard the facts, considered that there was a case fit to be considered by a jury, and secondly, because the Grand Jury, who also had heard witnesses, considered, as they showed by their action, that they agreed with it. (This extremely clear explanation of the position should be in the minds of both the participants and the critics in every criminal case.)

Mr. Justice Humphreys then carefully set out the salient portions of the evidence. Stephen had died early in the morning of 31st May as a result of a revolver wound in the left lung. Had Mrs. Barney fired the shot; if so, had she intended to fire it? She had stated that, in the struggle which took place, she could not recall whether her finger or Stephen's had been on the trigger. The evidence of Sir Bernard Spilsbury, the medical expert, showed that it would be difficult for Stephen to have held the trigger in the circumstances. The revolver, Sir Bernard had said, had a long and heavy pull and, if the man's wrist were bent, as it must be bent to make a horizontal wound through the chest from back to front, it would be impossible for him to exercise enough strength to fire the revolver at all. Sir Bernard had also testified that the revolver had not been fired when it was either touching or very close to the dead man's body; his evidence was, therefore, against the theory of suicide.

When dealing with Sir Bernard Spilsbury's evidence, the Judge took up the point that Stephen was a muscular young man whose object was to prevent the revolver from going off. He was, therefore, extremely unlikely to have his finger on the trigger. But, if his finger was not there, it left that space open for any other person who was trying to grasp the revolver. The jury might think, the Judge went on, that the only way in which the weapon could have been fired was that, in the struggle, the woman got her finger on the trigger and fired. A point made by the Crown in opening the case, namely, that the revolver was not more than six or less than three inches from the body when fired, appeared to corroborate the story of a struggle.

Did Mrs. Barney intend to fire the revolver, the Judge now asked. He commented on the "wasted lives" of the two participants in the affair, and the quarrels which resulted from their mode of

life. The story put forward by the prisoner, he reminded the jury, was that they were quarrelling over a woman with whom Stephen had been consorting; and that Mrs. Barney had threatened, as she had done before, to shoot herself if Stephen went away with the other woman. Stephen's reply had been, "Well, anyway, you won't do it with this!" and he had picked up the revolver. Mrs. Barney had told them that she had threatened suicide to Stephen before, and had written to him that "I feel like suicide when you are angry." She had also told the doctor that she had often thought of taking her own life.

According to Mrs. Barney then, the Judge said, it was Stephen who made a dash for the chair where the revolver was kept. The revolver had been a gift to Mrs. Barney when she was less than twenty-one years old from an Army officer, who must, Mr. Justice Humphreys remarked, be a very unhappy man to-day. She struggled to obtain it from Stephen, and so the shot was fired. The Judge pointed out that this story, told in this form to the doctor immediately after the event, had been repeated by her both to the police inspector and in the witness-box.

"What right have we to say that the story is untrue?" Could the jury put it aside? The Judge also referred to the doctor's evidence, that Mrs. Barney was so hysterical and overwrought at the time when she told him her story, as a factor which tended to preclude the invention of a cool and connected fabrication. Unless, then, the jury rejected her story to the doctor, they would have difficulty in finding Mrs. Barney guilty of murder.

He directed the jury, however, that they must consider the question of manslaughter. The accidental killing of a person by another, while the latter was engaged in doing an unlawful and dangerous act, was manslaughter. In this case, if they found that Stephen was killed while Mrs. Barney was attempting suicide, she was guilty of manslaughter. He referred to her own evidence that she threatened and intended to take her life.

The jury, however, returned after a two hours' discussion with a verdict of not guilty of murder or of manslaughter. Mr. Justice Humphreys made no comment on this verdict, unlike his usual custom.

We come now to perhaps the most mysterious case that Mr.

Justice Humphreys has ever tried, namely the trial of two sisters, Marjorie Yellow and Emily Thay, for the murder of a young man named Sidney Marston, a grocer's assistant, in Birmingham. That murder was done can hardly be doubted, but no sufficient evidence has ever yet been produced against any individual to justify a conviction.

Marjorie Kathleen Yellow was, in 1932, a twenty-two-year-old shop-assistant, married to a man with whom she did not live, and living with a man named Gwinnell to whom she was not married, in Willows Court, Birmingham. Her sister Emily, a girl of sixteen employed in a warehouse, was spending the week-end with them in their house, where, one evening, Sidney Marston was found dead from a knife-wound in his chest. Both sisters were arrested and charged with this murder, and the case began before Mr. Justice Humphreys on 6th December.

Marston was last seen alive and unhurt in a café about half-past six on the evening of his death; he was then in the company of two other young men. About twenty-five past seven he was seen in the doorway of the Gwinnells' house, about twenty minutes' walk from the café. Ten minutes later two passers-by observed the younger sister, Emily, rush out of the house crying, "Murder! Murder! Fetch the police!" Immediately afterwards, Marjorie came out, saying, "Come here and get this strange man out of the house!"

One of the passers-by, named Thompson, asked her who the man was, to which Marjorie replied, "I've never seen him in my life before," and "He hit me in the mouth." This witness, by the way, thought that Emily did not come out until after her sister. Be that as it may, Thompson entered the house at Marjorie's request and, seeing Marston and believing him to be an intruder, went up to him and said, "What's your game?" Marston replied, "I've done nothing," and sank to the ground. Emily then fetched him a glass of water.

At this moment two other passers-by entered the house and suggested calling the police, a course to which, it was afterwards alleged, Marjorie objected. However, the police were sent for and, before they arrived, Emily described how she had gone out to buy cigarettes and Marjorie had gone upstairs to powder her

nose: she, Emily, on her return, had also gone upstairs, and then Marjorie came down and found Marston, who tried to stab her, whereupon she called for Emily and the police.

The next arrival at the house was a dentist named Andrews, who examined Marston's body and found that he had been stabbed through a main artery high up on the left breast, just below the collar-bone. According to Sir Bernard Spilsbury, he must have died within a minute or two after the delivery of the blow. When the police arrived, they found the blade of a knife in the dead man's overcoat pocket—the handle was afterwards found in the hall of the house—and, in his waistcoat pocket, a crumpled ten-shilling note. After taking statements from everybody present, they arrested the two sisters, and the Birmingham magistrates committed them for trial.

According to counsel for the prosecution, when the case came up for trial before Mr. Justice Humphreys, Marjorie told two stories conflicting with the one outlined above. One was to the policeman who came to the house, to whom she was alleged to have said, "He stabbed himself with a knife and I took the handle from him." And Mr. Andrews the dentist stated that Marjorie told him that both sisters were upstairs when they heard somebody below and, looking down, she saw a man waving his arms; but she did not, said Mr. Andrews, mention an attack or a knife. He himself, he went on, looking at Marston, had said, "He's made a clean job of it," or "He's stabbed himself." Another constable swore that Marjorie asked him, "Will they detain us?" and then said to her sister, "Don't say anything! You're only trying to shield me." And later she was reported to have said, "They don't hang women, do they? Well, you've only to die once. Women go to prison for life, don't they?"

Thompson, the first man to enter the house, said in addition to what has already been mentioned that, when Marston collapsed, Marjorie remarked, "He's only shamming; he's done that before." He also thought that he had heard Marjorie say, "There was a ten-shilling note on the table and, when we came down, it was gone," and that Emily had said, "He had a knife in his hand, and, by trying to take it from him, I cut my thumb."

More than one witness declared that Marjorie denied having

seen Marston before, but a scrap of paper was found in his pocket-book, on which he had written the words: "Miss M. Gwinne." In her statements, Marjorie apparently suggested that she might have met him somewhere at a dance and given him her name. In any case, in the absence of further evidence on the point, the writing on the paper might cut both ways, for the inaccuracy of the name may show that, while Marston must have known her, or known of her, he could not have known her well or he would have written the name correctly if he needed to write it at all.

Sir Bernard Spilsbury's evidence established that the knife-blade had been driven into him for three or four inches with a downward, vertical movement, and withdrawn in exactly the same manner. It would, he said, be difficult for a man to stab himself in this way, and impossible for him afterwards to withdraw the blade. Sir Bernard added that the blow could not simultaneously have caused wounds which were found on Marston's right hand, nor could it account for certain injuries to his face, which seemed to have been made by a hard object with a rough surface. Such injuries, Sir Bernard suggested, might have been caused by a blow from a fist wearing rings.

In reply to Mr. Norman Birkett, who was defending the girls under the Poor Persons' Defence Act, Sir Bernard Spilsbury said that the injuries must have been caused by somebody standing face to face with Marston. Mr. Birkett seized on this reply to point out that Marston should therefore have been able to name or describe his assailant, but he did not do so.

Sir Bernard agreed, further, that Marston was a young man physically capable of looking after himself. He was nearly six foot in height, muscular, well nourished, and proud of his personal appearance. One would therefore have expected a struggle, but, beyond the fact that Emily's belt was torn from her dress and that a broken string of beads belonging to Marjorie was found, neither girl showed any sign of a struggle, except for Emily's cut thumb, though both of them were seen by several people within, presumably, half a minute of the stabbing. Marjorie, by the way, said that the string of beads was broken some days before by a small boy, and that she herself had torn Emily's belt; while Emily, after first explaining according to Thompson, that she had cut her

thumb while attempting to snatch the knife from Marston, later said that the injury happened when she was trying to open the door.

This was all the material available for the prosecution. On it they suggested that both girls set on Marston, and that one held him while the other stabbed him. This, said counsel, would explain Marston's injuries and the damage done to his clothing. Marjorie, it was alleged, had at one stage in the police investigations mentioned that her brother might have had something to do with the crime, but counsel submitted that this was merely said in order to serve as a shield for herself. Apart from anybody who might have entered the house by the back-door, the prosecution went on, these girls were the only people in the house, except Marston, at the time of his death. One reason which might explain the affair was the ten-shilling note which had been, it was said, on the kitchen-table but was subsequently discovered in Marston's waistcoat-pocket. The sisters and the man might have been quarrelling about this sum.

Mr. Birkett, for the defence, submitted that there was no case for him to answer. There was, he said, no evidence of common design between the prisoners, nothing against the younger one of any kind, nothing really conflicting in the stories told by the sisters at various times, and nothing in Marston's dying words to incriminate them. Marston, said Mr. Birkett, could have answered Thompson's question, "What are you doing?" or "What's your game?" by saying that the girls had stabbed him, if this had been the case; instead of which he merely said, "I've done nothing." Moreover, Mr. Birkett argued, some of the evidence called by the Crown was far from reliable.

Mr. Justice Humphreys upheld Mr. Birkett's submission, and ruled that there was no case to go to the jury. He had, he said, been at some pains to look through all the evidence for himself to see whether it could be submitted to the jury. Some of the witnesses' statements had been shown to be unreliable, though he thought that they believed what they said. But there was other evidence which had been shown to be "so utterly unreliable that I am certain no jury in the world would dream of acting upon it in a criminal case."

There could be no question of suicide after Sir Bernard Spilsbury's evidence, said the Judge, and there was nothing apart from suspicion to suggest that a fourth person was present in the house at the time. There was, therefore, a *prima facie* case that one of the accused had struck the fatal blow, "but that will not do."

Discussing the evidence, the Judge remarked that there was nothing which pointed to any joint action between the girls; and he emphasized that part of Sir Bernard Spilsbury's evidence which indicated that the blow had more probably been struck by a strong man. The only sort of evidence which could be suggested against Emily, the younger sister, was the slight cut on her hand, which she was stated to have explained in two different ways at different times: "It is right that I should say," he went on, "that in my opinion there is no real evidence against Emily Thay. I go so far as to say there never has been any real evidence against her. She and her sister have consistently said, in the various statements they have made, that, when they were both upstairs, the man in the hall was observed by Marjorie, that it was she who went down first, that she was with the man, that she called out something, and that it was only then that Emily ran down, and passed her and the man, and ran to the door and opened it."

As for Marjorie, "There is evidence, some of which might be described as telling against her, and some of it, I think—especially that of Sir Bernard Spilsbury—tells in favour of her. But there is, in my view, having considered the matter with some care, an absence of any sufficient case against her to justify me in leaving her case to the jury."

He added, "It must be remembered, in fairness to the prisoners, that we have not heard the defence. . . . Nobody must assume that they have no better answer to the charges than that which has been made in cross-examination of the witnesses for the prosecution."

He then directed the jury to return a formal verdict of not guilty against both sisters, and the case came to an abrupt conclusion.

Who killed Sidney Marston? It is certain that he was killed and did not commit suicide, but we cannot anticipate that the question will ever be answered. On the assumption, however, that the girls were both innocent of the stabbing, the fact remains that

somebody else must have been in the house and struck the blow, after which the blade of the knife was placed in the victim's overcoat pocket. If Sir Bernard Spilsbury's deduction was correct and Marston's collapse followed almost immediately on the stabbing, the murderer could not have escaped through the front door without being noticed by the passers-by who came in so quickly; he must, therefore, it is to be assumed, have got away through the other door, though, strangely enough, he does not seem to have been noticed by anybody in the process.

Marjorie Yellow's later career was not wholly fortunate. Less than two months after her acquittal, she was fined in Manchester, where she had moved, for disorderly conduct and assaulting a policeman. Two months later again she was sent to prison for ten weeks in the same town for assisting in the management of a disorderly house. And two years afterwards, in February 1935, she received a sentence of eighteen months' imprisonment in Liverpool for stabbing a coloured seaman with whom she was living. In this case her defence was that, intending to leave his house, she stood on a chair holding a knife with which she meant to cut down the curtains; he caught her hand and slipped to the floor, and the knife was pulled down on him.

It should be mentioned that, during this year, 1932, Mr. Justice Humphreys had the unusual experience of trying a former Member of Parliament and trade union chairman for criminal libel. Andrew McElwee, formerly M.P. for Hulme and chairman of the Amalgamated Society of Woodworkers, was bound over by him for two years in Manchester for libelling officials and members of that Society, to whom he referred, among other things, as "a gang of impudent and incorrigible thieves." It is, unfortunately, unknown what epithets Mr. McElwee would have been inclined to use to describe his former associates and opponents in his other sphere of public activity, the House of Commons.

CHAPTER TWELVE

A QUEER murder case came before Mr. Justice Humphreys at the Old Bailey in March 1933, when Theodosios Petrou, a native of Cyprus, was charged with causing the death of Dr. Angelos Zemenides, a teacher of the same nationality, in the latter's boarding-house in Hampstead. In view of some of the evidence—which, the Judge commented, "takes one back to Biblical times"—and the fact that the prisoner had to be provided with an interpreter, it may be noted that both he and the dead man, being Cypriots, were British subjects.*

At about 11.20 on the night of 2nd January, 1933, a man knocked at the door of Dr. Zemenides's house, and was admitted by another lodger named Deby, who left the doctor and the visitor together in the hall. After a while Deby heard the doctor shout for help and, rushing out of his room, found him struggling with the visitor. A shot was fired and imbedded itself in the wall without hitting anybody. Dr. Zemenides then managed to back into the door which Deby had left open, but the visitor followed him and fired another shot, which passed through the doctor's heart and killed him instantly. The murderer escaped in the darkness.

The police examined various Cypriots—most of them engaged in restaurant kitchens in the centre of London—and soon arrested Petrou, a young cook aged twenty. It was explained at the trial that Cypriot marriages are usually arranged through an intermediary, and that Petrou had given the dead man ten pounds to find him a suitable bride. One requisite was apparently that she should have a dowry of about £200, which Petrou intended to use to pay off his father's mortgages in his native island. Petrou himself was very poor, and borrowed the ten pounds, which he gave to the

* Up to the beginning of the Great War, Cyprus was nominally a Turkish possession, though administered by Great Britain. It then became a Crown Colony, and practically the entire population, both Greek-speaking and Turkish-speaking, accepted British nationality.

match-maker. When Dr. Zemenides failed to produce the girl, Petrou asked for his money back; but he received only five pounds, as the doctor had spent the rest. It was suggested by the prosecution that Petrou's anger and his suspicion that the doctor had tricked him were the motives for the crime.

The case against Petrou was that he had left a house in the Hampstead Road just before eleven on the evening of the murder, that a pistol was found in his lodging, and that he had confessed the murder next day to another Cypriot who called himself Page Hall. The latter stated that Petrou came to his café that afternoon and, talking about the murder of Zemenides, said, "I killed him." A day or two later, Petrou came there again and, according to this witness, announced that he was going to the police station to give himself up.

Against this, the defence claimed that Petrou's movements on the night of the murder showed that he could not have done it. He left his work at the Café Monico in Piccadilly Circus at five past ten, visited a coffee-shop in Old Compton Street for a while, called at his former lodgings in the Hampstead Road for a letter expected from his parents, left there at eleven, walked to the Tottenham Court Road, and waited for a motor-omnibus to take him to his lodgings in Clerkenwell, where he went to bed at a quarter to midnight. This alibi, which was supported by several witnesses, clearly would not leave him time to go out to Hampstead and shoot the doctor, whom, moreover, he said he had not seen for four weeks.

In regard to the pistol found in his room, Petrou said that he did not even know how to use firearms; and it was suggested on his behalf that somebody must have "planted" the weapon there as evidence against him. As for Page Hall's story of the confession, not only did Petrou deny this absolutely but his counsel pointed out that Page Hall had not thought fit to mention it to the police when it was supposed to have been made to him.

Mr. Justice Humphreys, summing up, told the jury that it was clear that some member of Dr. Zemenides's community had committed a callous and brutal murder. He referred to Petrou as, to all seeming, a "perfectly respectable young man" and set out to them the salient points for the prosecution and the defence. In

regard to the question of motive, he remarked that, though it might seem ridiculous to an Englishman to shoot a man over a quarrel about five pounds, they must consider whether persons of other races were sometimes given to acts of violence on much less provocation than would affect Englishmen. The jury took an hour and twenty minutes to consider their verdict, and then found Petrou not guilty.

At the end of the same year the Judge tried Ernest Brown, a groom aged thirty-five, for the murder of Frederick Morton, his employer, who was a cattle-factor at Saxton Grange in Yorkshire.

Morton's charred body was found at nine in the morning in the remains of his motor-car after a fire in his garage, which had begun at half-past three in the morning: doctors insisted that he had been killed by shots some time before the fire broke out, and the police reasonably assumed that the fire was lit by someone who had murdered Morton and wished to conceal the fact. Their suspicions fell on Brown, who was working for him as an odd-job man. The evidence for the prosecution at the trial showed how well justified they were in arresting him and putting him on trial.

It appeared that Brown began working for the dead man about five years previously, his principal duty being to look after the horses and go riding with Mrs. Morton, who soon became his mistress in another sense. After about a year, however, Mrs. Morton said in the witness-box, she continued to submit to this intimacy only reluctantly and under pressure from Brown; but she continued. Brown left their employment after four years because he objected to being asked by Morton to mow the lawn; then by threats of exposing his relations with Mrs Morton to her husband he persuaded her to reinstate him, though this time as an odd-job man, a position he greatly disliked.

He was heard to use threats against Morton, and was also said to be very jealous of Mrs. Morton. Indeed, happening on the afternoon before the crime to learn that she had gone to bathe with another man, he assaulted her. She said he threw her on the ground, but he would only admit to pushing past her. Her husband was out all that day in his car, and, although he was expected home for supper and was seen driving home from a public-house about

nine o'clock in the evening, he apparently never entered his house again.

Brown, on the other hand, came home about half-past eight. Mrs. Morton and her maid heard shots about an hour later, and pellets fell against the window-pane. They asked Brown what the shooting was, and he said that he had shot at a rat in the cow-yard. Shortly afterwards the telephone rang, but it did not ring again, although Mrs. Morton was expecting a call and the Post Office tried to put one through to her; next morning it was discovered that the wires had been cut. Brown was known to have taken a knife from the kitchen drawer immediately after the telephone rang, explaining that he needed it to free a head-rope from a horse that had broken loose.

Much was made by the prosecution of the fact that the telephone-bell would not ring after Brown had taken the knife from the kitchen. It was further alleged that Mrs. Morton for some reason told him that she had received another call later in the evening—which was incorrect—and that he showed great surprise. Against this was set his own story that, in the middle of the fire episode, he himself went to the telephone and dialled the operator's signal in order to send for help, but got no reply. Would he have done this if he had already cut the wires, the defence asked. Would he have dared not to do it, for fear of showing that he knew the wires were cut, the other side retorted.

More important perhaps is the point about the knife, which Brown said he had taken to cut a head-rope. Dr. Tryhon, Professor of Chemistry at Hull, said in evidence that the wires had been cut by this knife and by no other, basing his statement on tests made with various knives and on microscopic photographs of the ends of the cut wire.

Brown's story was that Morton returned home about half-past eleven the worse for drink, and told Brown not to put the car away as he might be going out in it again. Brown then went to bed. Morton sometimes slept in the car, and Brown suggested that his employer had dropped asleep in it and accidentally started the fire with his cigarette. This explanation, however, did not explain his being shot, or why, when the alarm of fire was given and Brown rushed out to release the animals, he was wearing his

collar and tie and his hair was tidy. Moreover, it was found that his bed had not been disturbed.

Counsel for the defence asked the jury to disregard Mrs. Morton's evidence against Brown, because, "When love has turned to hate, there is no knowing to what length that loathing may lead one." She was trying, it was suggested, to fasten the crime on Brown in order to revenge herself on him for his past treatment of her. So far as the defence offered any theory to explain Morton's murder, it was that a stranger had killed him and afterwards fetched a knife from the house and cut the telephone wires.

In his summing-up, Mr. Justice Humphreys discussed the evidence of Mrs. Morton and her maid. Mrs. Morton, he said, was "on her own confession an immoral person, but you need not necessarily disbelieve her on that account. What is more important, however, is that she is an angry woman. She has admitted that she hated Brown." But if the jury believed her evidence and that of her maid, which corroborated it, it was impossible that Morton had come back at half-past eleven or left again afterwards; the women were waiting for his return and would surely have heard the car, had there been anything to hear. Further, both women were greatly frightened that night and had not attempted to go to bed: they would have heard any stranger who came into the kitchen to take a knife to cut the telephone-wires. The Judge told the jury that there was no need for them to find a motive for the crime, though Brown's jealousy of his master and dislike for his new work might provide a reason for the act.

The jury were absent for seventy minutes, and returned with a verdict of guilty against Brown. Before passing sentence of death, the Judge said to Brown, "The jury have convicted you of a murder which was cruel and brutal, and I should like to say that I agree with their verdict." He subsequently excused the members of the jury from similar service for a period of ten years.

Like every other Judge in recent years, Mr. Justice Humphreys has found more and more running-down cases coming before him, that is, cases concerning road accidents in which motor-cars are involved.* He remarked once at Derby Assizes that it made him

* And will continue to be involved so long as the law persists by which, the slower and more vulnerable a vehicle, the less it is required to be illuminated.

feel ill to sit day after day and hear details of the appalling injuries caused in motoring accidents to people often wholly innocent of blame for them. "It is enough," he added, "to make one determine that oneself at least shall never be driven at more than thirty miles an hour." And in another such case, he said, "I do hope that, when we get to Heaven, we shall not have motor-cars there!"*

He was able, however, to take a merciful view in one serious motoring case. A doctor was charged before him in Newcastle with manslaughter, in that he had run down and killed a pedestrian. It came out in evidence that the doctor had been working exceptionally long hours in order to clear up his work before going for a delayed holiday: as a result, he had dropped asleep at the wheel and his car had crossed the road and killed the man. He was found guilty, and the Judge sentenced him to pay a fine of one hundred pounds but, realizing that this conviction might easily lead to the doctor's being struck off the medical register and ruined, Mr. Justice Humphreys went out of his way to say that he saw no reason why the prisoner should not continue to be a useful citizen and member of his profession. To make this point even plainer, the Judge did not disqualify him from driving a motor-car in the future. It is pleasant to record that, when the matter was raised before the General Medical Council, no disciplinary action was taken against the doctor.

On another occasion, when the Judge had awarded a young Hull cyclist nine hundred pounds damages against a motor-car driver who had injured him, he publicly warned the plaintiff against parting with the money to people who might approach him with nebulous business propositions. "I want you," he said, "to promise me that you will not settle any matter of that kind without taking advice. You are a Yorkshireman, and probably have common sense; Yorkshiremen mostly have. But nine hundred pounds is a great temptation to people when they know that a boy of twenty has it. They will be round you like flies round a jam-pot."

His many years of experience as an advocate in licensing cases were recalled when he regretted having to concur, on strictly legal grounds, in a King's Bench judgment in May 1934, the effect of

* But presumably there will be some reckless flying.

which was to prevent certain South Coast licensing magistrates from extending public-house hours after 10 p.m. in the summer to meet the change of circumstances created by the use of Summer Time. "I think," he said, "that the magistrates who made the order," against which the police were successfully appealing, "know their district well, and also know what might benefit the people who live there and the visitors who go there." It may be noted that the life of the judgment in this test case was short-lived, for the law has now been changed to allow a more sensible scheme of licensing hours during Summer Time.

A knotty point of law, however, arising in the course of a divorce case which he was hearing in Leicester at about the same time, called forth from the Judge a confession that he was not omniscient. "I am not a Judge of the Divorce Court," he explained, "and I see no reason why I should make myself familiar with rules in cases which I do not normally try. I think it would be better, when any important question like this arises, to adjourn the case to be tried by the Divorce Court. It is undesirable, and the late President of the Divorce Court [Lord Merrivale] took the same view, that Judges on circuit should give rulings which may be at variance with those of the Divorce Court."

His most sensational case in 1933 was the trial of the fire-raisers, in which Leopold Harris and no fewer than sixteen other prisoners, including a woman, were charged with victimizing insurance companies. The preliminary proceedings at Bow Street before Mr. Dummett, the magistrate, lasted nearly a month, while the trial at the Old Bailey before Sir Travers Humphreys was destined to be the longest, and probably the most complex, ever heard there. Apart from the seventeen prisoners in the dock, three men whose names were mentioned in evidence were found dead. Two at least of these took their own lives under the impression that they were about to be arrested: one of them fell before a tube train, after first thoughtfully removing his gold wrist-watch and placing it on the platform; a second was found asphyxiated in his garage, and the third poisoned himself with disinfectant. In point of fact, all three were mistaken in anticipating arrest. There is sometimes safety in numbers and in this case there certainly was: for, though scores of other prisoners might have been placed in the dock, the

prosecution was under the desperate necessity of keeping the case within manageable bounds and was forced to limit the evidence to the bare minimum sufficient to convict only the ringleaders of one of the most dangerous gangs of criminals in our history.

The background of the case is in many ways without precedent. We are all familiar with detective stories in which the official guardians of justice are helped out of their difficulties by an outside investigator. This actually happened in the Harris case, for the whole series of investigations which led to the discovery and conviction of the gang was conducted from first to last by a private individual, Mr. William Charles Crocker, a London solicitor. The Department of Public Prosecutions did not know about the investigations until these were practically complete, and Scotland Yard was not brought in until even later. When it is understood that the gang's crimes extended over the whole country, involved many millions of pounds, inevitably jeopardized human life, implicated people holding important official positions, and had been successfully carried out for a number of years, the magnitude of Mr. Crocker's achievement will be recognized. No amateur detective of fiction ever handled a "case" so big. It must be agreed that Mr. Crocker, as a solicitor specializing in insurance business, had special opportunities and aptitude for the task, but this should not lead us to underestimate his difficulties or his success.

A number of insurance companies have for many years been accustomed to hand over to him claims which were suspect for one reason or another, and his firm is used to investigating such matters.* In the course of this routine work over a long period, Mr. Crocker frequently crossed swords with a certain Leopold Harris, a man who was much distrusted by the insurance companies. Harris, who had succeeded to an old family business, described himself as an "Insurance Assessor" and was so described at the trial before Mr. Justice Humphreys. It would, however, be more accurate to call him a "claims-maker," since his function was invariably to represent the victim of a burglary or a fire and to

* It was, incidentally, inquiries conducted by him which first revealed that the death of a Mrs. Fox, apparently by fire, at a Margate hotel in the autumn of 1930 was not the accident it seemed, a disclosure which led to the conviction and execution of her son for murder.

prepare the appropriate claim against the insurance company concerned. His method was as follows: He would arrive on the scene of the casualty within a magically short time of its happening, for he had an "intelligence service" which sent him instant news of it. Then he sent in his card to the sufferer, and presented for the latter's inspection a printed booklet containing hundreds of testimonials from concerns and individuals of the very highest standing. He would offer to take charge of the claim against the insurance company for a commission of anything from one to five per cent of the sum to be recovered under the policy. As a high-pressure salesman of considerable skill, he was retained in an enormous number of instances and presented through his firm, Messrs. Harris and Co., more claims than all his competitors put together.

It was clearly to his advantage, as a sharer in the proceeds, to make the claim as large as possible, and, with an uncanny ability to read human nature, he could usually sum up at a glance the character of the individual whose claim he was retained to press: it may be said that a large number of people, not formerly dishonest, succumbed to the temptation he put in their way and tacitly acquiesced in the inflated claims he put forward on their behalf. The insurance companies and their own assessors were so familiar with Harris's methods that his claims were habitually received on the especial assumption that the values advanced were only distantly related to the truth: but it was only painful research and the consequent discovery of a patent blunder in the faked figures which would occasionally justify a repudiation of liability and so leave Harris's client a poorer but wiser man.

One of Harris's mistakes may be related here for the first time.

A somewhat eccentric gentleman approached an insurance company to insure his wife's jewels against theft. He explained that, though she owned two or three valuable objects, worth perhaps a hundred pounds each, he did not wish to insure these because they were always watched with great care and were thus unlikely to be stolen. All he proposed to insure, he said, were her smaller and less valuable jewels, none of which was worth more than fifty pounds. The insurance company protested that it would cost him little more to insure the lot, but he held to his decision

and the policy which he took out specified that no claim would lie in respect of any article valued at more than fifty pounds.

Then, in his absence from home, the house was burgled and all the jewels were stolen, the valuable pieces among the rest. Harris, thanks to his special sources of information, arrived almost as soon as the police and persuaded the wife, in all innocence, to put the claim in his hands. The policy was in the absent husband's possession: the wife could only tell Harris the name of the insurance company and the nature of the stolen jewellery. Harris then presented a claim on her behalf in his usual exaggerated style, pricing only three of all the jewels at less than fifty pounds apiece.

The insurance company, smiling broadly, sent him by return a cheque for £150 in full settlement, and referred him to the terms of the policy for the explanation of this drastic whittling-down of his claim!

In general, however, Harris was far too clever to be caught out so easily, and he never fell into the same trap twice. But at last he grew weary of presenting claims for the main benefit of other people and decided that he would use a more direct and lucrative means of swindling the insurance companies: he determined to float dummy businesses, put them under the apparent proprietorship of a confederate, insure them for fantastic sums in respect of direct loss by fire and indirect "loss of profits" due to the derangement of the business through the fire, cause the destruction of their stocks and then, in the guise of a seemingly independent assessor, present grotesquely inflated claims—ostensibly on behalf of his clients, but actually for himself and for such fellow-conspirators as he admitted to a minor share in his plans. For this criminal purpose he required associates in whose names his companies could be insured and, more urgently still, associates who would not shrink from setting fire to the premises. (Fire was the only satisfactory method of achieving his aims: it is the only form of destruction which automatically—if all goes as planned—destroys its own traces. A burglary lacks this advantage and is much harder to stage.) There were refinements which he introduced into the process, but this was the main source of the huge gang of confederates, subordinates and spies which he gradually built up in the years after the War.

He first enlisted members of his family—his brother, David Harris, and a brother-in-law, Harry Gould—and two men named Louis Jarvis (formerly Jacobs) and Camillo Capsoni, an Italian who had been in the silk trade. Gould (formerly Goldstein) had been a tailor, but had developed an interest in fires as a buyer of salvage goods: he incorporated his business under the style of H. Gould and Co., Ltd., but he did not reveal the fact that the "and Co." represented Leopold Harris's half-interest in the share capital. This firm was one of the principal sources from which Harris procured "stock" for his warehouses. Goods which had been damaged in previous fires or, having lost their value through other causes (such as changing fashions), were not ordinarily marketable, could all be invoiced by H. Gould and Co. to the dummy firm as of the best quality and so used to support the wholly fraudulent claim on the insurance companies after a fire.

One of the first of the big fires mentioned at the trial occurred in 1927, when the warehouse of Fabrique de Soieries, Ltd., went up in flames in Manchester. Louis Jarvis and Capsoni were its nominal proprietors, but actually Leopold Harris had a substantial but secret share in the venture. Its stock, which consisted of depreciated Italian silk from the Gould salvage concern and elsewhere, had a real value of perhaps £4,000, but was insured for £40,000, with a Lloyd's "loss of profits" policy for £20,000 in addition. Harris, who "happened" to be in Manchester on the night of the fire, presented the respective claims, which were eventually settled by the insurers for £29,000. It is instructive to note that he was trebly concerned in the transaction: as a secret financier and partner in the warehouse, as a secret partner in the firm which had supplied some of its stock, and as the claims-maker. Nobody knows the exact distribution of the plunder, but Harris was subsequently proved to have received £8,000, and probably got a great deal more.

After this beginning—so far as it may be regarded as a beginning—he adopted similar methods all over the country. He founded businesses, packed them with goods—especially from H. Gould and Co.—arranged fires in them and presented claims to the insurance companies based on impudent over-valuations of the actual stock and on falsified invoices for stock which had never

been on the premises at all. As a matter of ordinary routine, the companies employed independent assessors to examine and adjust the claims, but Harris's knowledge of the assessors usually retained by each particular fire office was exceptionally complete and it is believed that he placed insurances where he knew that the assessors likely to be sent to investigate claims would possess personal weaknesses of which he could take advantage for his own interests. Sometimes, it is true, the assessors developed suspicions and asked awkward questions, but Harris weighed them up and, exercising an amazing cunning and versatility, frequently gained his ends when anybody else would have been beaten. He did not stop at bribery, and his gang went on growing. It was altogether an expensive business, and his outlays were very considerable; even the purchase of "junk" and "old soldiers" (i.e., salvage from previous fires) meant real money, while the cost of his far-flung "intelligence system" was considerable. Still, as he claims to have extracted fraudulently about three-quarters of a million pounds a year from the insurance companies for himself and his clients at the height of his activities, these were certainly profitable.

All the time Mr. Crocker, handling the legal business of insurance companies and Lloyd's underwriters, grew increasingly familiar with the methods by which Harris, as a claims-maker, throve upon inflated claims. Working in conjunction with the fire companies' assessors, Mr. Crocker was able to reject some of these claims on the ground of misrepresentation and to effect drastic reductions in many others. There was, however, no atom of proof to substantiate a charge of fraud against Harris, for the latter's carefully maintained pose was always that of an agent or mouthpiece, putting forward the story of his principal, the policy-holder. It was never suspected that he was himself a "sleeping partner" in burnt-out businesses, and still less that he was the secret head of a huge arson gang. It is easy now, when the whole conspiracy has been brought to light, to see how he worked; but in those days—the close of the nineteen-twenties—the whole matter was a complicated mystery. All that Mr. Crocker could do was to investigate individual claims and advise his clients to reject those in which there seemed sufficient evidence of misconduct; though these rejections of Harris's claims amounted to

about £100,000, they only made him more persistent and ingenious in presenting others.

It must be remembered that, though Mr. Crocker was automatically collecting and storing away in his memory during the ordinary course of his work an ever-increasing mass of information about Harris's methods as a claims-maker, neither he nor anybody else had the slightest suspicion that an arson gang was in existence or that Harris was concerned with its activities. But suddenly something happened. A man named Mathews came to Mr. Crocker with a curious story. He had been, he said, a clerk in Lloyd's and thus knew of the solicitor's connection with the insurance community; lately, he went on, a friend of his had been approached by a certain Harry Priest with a scarcely veiled suggestion of arson. The friend was to set himself up in a bogus business with money provided by "The Prince"—a mysterious individual of whom Priest would only reveal that he was so powerful as to be able to practise arson with impunity, being practically above the law—and in due course the premises would be set on fire, and everybody would benefit at the expense of the insurance companies. With professional caution, Mr. Crocker listened to Mathews's story and suggested that it would be more valuable if it could be made a little more definite; he asked Mathews to keep in touch with Priest, to try to obtain information about "The Prince" and his activities, and, in particular, to learn from Priest when and where a fire was to take place. Some time passed, and then Mathews brought exciting news: Priest was boasting that a "bric-à-brac shop in Poland Street" was being fitted out by the gang and would go up in flames shortly.

There were several shops of this description in Poland Street—a thoroughfare off Oxford Street, in the very heart of the West End of London—and it was not a practical proposition for any private investigator to organize a patrol of the whole street for an unknown length of time, especially on the strength of what might turn out to be a mere cock-and-bull story. But suppose the story were correct? Suppose Priest's statement proved to be prophetic? It was clearly most desirable that some record should be made of it in such a way that, if such a fire broke out, Priest's foreknowledge of it should be clear beyond the possibility of denial. The solicitor

therefore dictated and signed a letter addressed to himself, containing the information which Mathews had brought him, sent it to his bank in a registered envelope, and instructed his bank manager to hold it there unopened until further notice.*

Then a bric-à-brac shop in Poland Street *did* catch fire, just as Priest had predicted. Was it possible, then, that the rest of Priest's boasts were correct, and that there really was an organized arson gang in existence, led by that mysterious individual "The Prince"?

Mr. Crocker decided to approach two of his clients and friends, Mr. W. W. Otter-Barry, the General Manager of the Sun Fire Office, and Colonel R. W. Roylance, a member of the committee of Lloyd's. To them he told the story of Priest's prophecy and the sequel, and suggested that it would be in the interests of the whole insurance community that a determined effort be made to follow up the incident. They appreciated the extreme gravity of the matter, on the assumption that it was not a coincidence, and took a decision which must be unique in insurance history. They instructed Mr. Crocker to go ahead with an investigation and pledged themselves to provide him with funds to meet any out-of-pocket expenses which he might find it necessary to incur. (Perhaps the reader might suppose that this "fighting fund" was of huge dimensions, commensurate with the extent of the conspiracy it was meant to investigate: but in sober fact it amounted to a mere £3,000, which was all Mr. Crocker said he needed to establish whether or not the Priest clue was likely to lead to results.) Above all, the two insurance heads undertook to preserve the greatest secrecy, for they saw the undesirability of taking many people into their confidence: Priest had boasted that "The Prince" possessed friends everywhere and, if there were any truth in this, it was reasonably certain that some of these friends would be in key positions. To Mr. Crocker the new venture, though promising him all the excitement of a chase, meant handing over to his willing but already busy partners virtually the whole of his other work; still, he was prepared to take a sporting chance by devoting his time

* The registered letter is still at the bank, unopened. When the time came for a "show down," the prisoners did not think it wise to question its existence or its contents.

to what might be a wasted effort but, equally, might produce very important results.

He had two directions in which to begin his inquiries: Priest, and the Poland Street fire claim.

Among the first things to be done was to secure Priest's photograph for identification. Now, if Priest were led to suspect that he was being watched, he would certainly abandon his activities and warn his problematical confederates, so that the investigation would be abortive. It was therefore necessary to obtain the photograph without his knowledge. An ingenious trick was employed, the first of a series of incidents which one would never expect to happen outside fantastic fiction. Discreet inquiries into Priest's business affairs showed him as the partner in a Stoke Newington silk warehouse. Mr. Crocker sent men there with the ostensible purpose of photographing and measuring the street as evidence in regard to a recent motor-car smash. When Priest came out of the door, this was explained to him and he was politely asked to stand aside while the photograph was taken: needless to say, he was thus posed exactly where the photographer wanted him.* Then he was shadowed, in the hope that he might lead Mr. Crocker directly to "The Prince" and the rest of the alleged gang, and incidentally to a new fire which was believed to be in preparation. Mr. Crocker's daughter spent several months following Priest's motor-car in her own, and soon came to the conclusion that the charms of amateur detection have been grossly exaggerated. For the Priest trail proved disappointing and failed to provide the hunters with the corroborative evidence they needed. Even the Stoke Newington warehouse, for some reason or other, escaped being set on fire.

One interesting act, however, was elicited, which provided fresh indications that Priest was really connected with the Poland Street fire. His partner in the Stoke Newington warehouse was one Camillo Capsoni, into whose affairs Mr. Crocker now instituted inquiries. It turned out that he had been involved in a fire at the Franco-Italian Silk Company, of 185 Oxford Street, London, and that he was also the source through which the

*In his admirable monograph on the Harris case, *The Fire Raisers*, Dr. Harold Dearden makes a slight error in stating that a concealed camera was used. In fact, Priest knew that a photograph was being taken, but had no idea that the camera was focused on him.

owner of the Poland Street bric-à-brac shop, Felix Bergolz (formerly Fajwel Bergholz, of Warsaw), had acquired some £1,400 worth of Venetian glass, which figured in the insurance claim after the fire.

To turn now to that claim, which constituted the second clue to the possible existence of a conspiracy, Mr. Crocker noted with great interest that it had been presented by none other than his old adversary, Leopold Harris, who also had presented the claim after the Franco-Italian Silk Company's fire. This fact linked Harris with Capsoni and Priest as fellow-conspirators. Mr. Crocker handled the Poland Street claim apparently as a routine matter and without conveying to Harris anything more than a suggestion that the figures were, as usual, exaggerated. Harris even had the courage and impudence to cause Lloyd's underwriters to be sued under their fire policy, and, while the litigation dragged on, the investigation was doggedly pursued. Hundreds of files relating to Harris's claims were examined. Here and there a suspicious circumstance was noted and added to the existing dossier containing the fruits of the inquiry. It may be mentioned that, to prevent suspicion being roused in any member of "The Prince's" supposed "intelligence service," these files were obtained almost clandestinely from the companies concerned and returnep to them with equal secrecy. As we shall see, all this secrecy was of no avail, for, as happens in the best detective fiction, "The Prince" had far better sources of information than anybody imagined.

And now another stroke of luck came Mr. Crocker's way, as important in its effect as its predecessor, the Mathews story. Mrs. Capsoni, the Scottish wife of the Italian associate of Priest, arrived one day at the office of an insurance company and was interviewed by one of its chief executives. She told a curious tale of seeing a photograph of a certain Jarvis in a newspaper in relation to a fire at Wembley: she had a very low opinion of him, insisted that he was concerned in arson, and thought it was time that he was brought to book. The insurance official was sufficiently interested by her story to send her to Captain Miles, the head of the London Salvage Corps, an official body subsidized by the fire insurance companies to protect their interests and to co-operate

with the fire brigade in saving life and property at fires. Captain Miles in turn felt obliged to send Mrs. Capsoni to Mr. Crocker, of whose investigations he was one of the very few people to know. After considerable hesitation she called at the solicitor's office in Bucklersbury, and asked for an interview.

She began her conversation in a curious way. "I think you're a friend of Leopold Harris?" she said, with obvious suspicion.

"You can ask any insurance company in the United Kingdom," Mr. Crocker replied, "if there's any man Harris hates more than me."

Thus reassured, Mrs. Capsoni began a remarkable narrative. She said that for some time she and her husband had been concerned with Leopold Harris and a gang of which he was the head in setting fire to buildings in order to secure the insurance money. Greatly troubled in conscience and determined to return to an honest way of life, she said, she and her husband wished to make amends for their misdeeds and start with a clean sheet: her intention, she went on, was to reveal all she knew of the conspirators and their methods, and so put a stop to the huge frauds of which the fire companies were continually the victims.

Imagine Mr. Crocker's feelings, when all his old suspicions seemed now to be on the point of corroboration by one of the gang! And his sensations when the thought came to him that perhaps Mrs. Capsoni's story, like Priest's, might lead nowhere and that her only purpose was to discover how much he already knew. If "The Prince" were really a super-criminal—whether Leopold Harris or somebody behind Harris—this is exactly what he would be most anxious to know. The solicitor therefore let it appear that her story was news to him and that he did not attach much importance to it. When she began to describe how her husband had set fire to the Manchester warehouse of the Fabriques de Soieries Ltd. in November 1927, he stopped her and advised her not to incriminate her husband in his absence.

Was this generosity? Not at all: Mr. Crocker surmised that her husband was not far away, and he was angling to bring that much more important fish into his net. His guess was correct. Mrs. Capsoni said that her husband was sitting in Fuller's tea-shop just round the corner; an apparently rather bored Mr. Crocker

suggested that she might fetch him, and she did so. Both the Capsonis then expressed their desire to make full confession.

The solicitor still professed to be dubious about the importance of their story. This pose made them the more eager to impress him, and they poured out detail after detail which, from his study of the files, he knew to be correct. He noticed, however, that Camillo Capsoni once or twice slurred over an incident—masking this by bursting into a flood of incoherent, broken English. Mr. Crocker then reversed his previous bluff: waiting till Capsoni again hesitated, he opened the drawer of his desk, took out a fat file, and said pleasantly, "If ever you're stuck for a date or a name, Mr. Capsoni, just consult me and I'll put you right." And he added to his horrified visitors, "You will understand that, on principle, I have had to hide from you the extent of my knowledge of these matters. For all I knew, you might have come here to pump me. So you must forgive me if, up till now, I've pretended that anything you told me has been new to me." His frankness, however, did not go to the length of telling the Capsonis that only the first two or three documents in the fat file concerned them; if they thought, as of course they did, that their whole career was set out in its contents, so much the better!

With a horrified stare at the file, Capsoni once more promised to tell the whole truth and he certainly did so. In the whole of his story, every word of which was taken down in shorthand by Mr. Crocker's secretary, there was only one mis-statement, which he made in order to try to protect his wife from implication in the Oxford Street fire of the Franco-Italian Silk Company: and she insisted on correcting this attempt of his to shield her.

The *volte-face* of the Capsonis is one of the most dramatic features of the whole affair. This couple have been condemned and reviled both for their offences and for their betrayal of their fellow-conspirators, but the making of their confessions with the almost certain consequence of imprisonment (of which Mr. Crocker warned them) demanded a high degree of moral courage and it is only fair to admit as much. There can be no doubt but that Mrs. Capsoni's repentance was genuine and that she had brought her husband to her own view of what they must do.

Sherlock Holmes never knew a greater moment of triumph

than did Mr. Crocker, now that his suspicions and his investigations were shown to be justified. Priest had flickered out as a clue, but the Capsonis were far better guides to the truth of the arson conspiracy. The solicitor was now faced with another back-breaking task. Every fire to which the Capsonis referred had to be followed up in the files of the insurance companies and Lloyd's, and the parts played by Harris (now unmistakably identified as "The Prince"), his relatives and other members of the gang had to be elucidated. Though the guiding thread was now clear, the complications were still enormous. Hundreds upon hundreds of claims were examined, and all of them made the gang's activities clearer. But it would have been madness to suppose that it could be brought to justice without a carefully prepared case. After all, the Capsonis admitted having taken part in the conspiracy, and their testimony in court would have been suspect and practically useless unless it was corroborated by independent evidence in every material particular. Harris would have briefed the most brilliant counsel at the Bar: what chance would Mr. Crocker and his clients have stood if they had to depend on the Capsonis, Mathews's story about Priest, and a mass of unrelated facts about fires and claims? His task now was the reverse of what it had been. Instead of seeking to prove the Harris operations through hundreds of cases, he set himself to select the smallest possible number of cases of which the evidence would convict the ringleaders, and only the ringleaders.

With this object Mr. Crocker took a huge sheet of paper and marked on it circles containing the names and dates of all the fires in which he had been able to find traces of Leopold Harris in his various capacities (as claim-maker, financier, provider of "stock," forger of invoices, etc.), of Harry Gould and other members of the family, and other important members of the gang. Then he drew lines between these various circles to indicate associated interests and features in common: finally, he sorted out the most striking examples of concerted action, and reduced his investigations to twenty-nine fires. This chart, which came to be nicknamed "Willesden Junction" from its likeness to a complex plan of railway operations, made matters as clear as they could be made.

Thus, for example, one would see lines running between

Fires 4, 11, and 16 to indicate that the Venetian glass which had its first baptism of fire at the Continental Showrooms in Leeds in February 1929, passed on to the Oxford Street fire of May 1930, and thence, still apparently intact though twice paid for by the insurance companies, to the Poland Street fire of June 1931. Other lines again—and these were many—ran from three central circles ("Harris Finance," "H. Gould and Co.," and "Harris Relatives") like arteries conveying life-blood to the fires on the periphery. The simile is not inapt, because the central circles represented respectively the establishment of a business by Harris, the supply of stock to it by the H. Gould and Co. salvage concern, and the connection of one or other member of the Harris family in it at the time of the inevitable fire. "Willesden Junction" was in effect the representation of a conspiracy in almost geometrical terms.

Even when this chart was nearly complete, Mr. Crocker recognized the vastness of the case he would soon have to place before the authorities. Clearly the public interest, as well as the interest of his clients, the insurance companies, demanded that every possible short cut should be taken to strengthen the case against the gangsters and to reduce the enormous burden of proof, with its risk of coming unstuck in court. He therefore thought of a plan which Sherlock Holmes would not have disdained, and which indeed Holmes once adopted in a rather different form. Mr. Crocker carefully prepared a sham motor-car accident, in which Capsoni was to receive sham injuries and be carried into an adjacent nursing-home, where Mr. Crocker—who happened to be its solicitor—had installed an ingeniously concealed bedside microphone leading upstairs to an office in which two of his confidential clerks (ostensibly auditors checking the nursing-home books) could listen in. The idea was that Capsoni, with true Latin passion, should protest that his motor-car accident was nothing other than a deliberate attempt by the gang to "bump him off," and should swear that, by way of revenge, he would go to Scotland Yard and tell the whole story of his own and the gang's misdeeds as soon as he was well enough to get up: his wife was then to warn Leopold Harris of her husband's threats and advise him to visit Capsoni and assure him that the accident was not engineered by

the gang. The ensuing conversation, Mr. Crocker anticipated, would clear up one or two vital points and place Harris completely at his mercy.

The accident was most successfully staged. Capsoni was carried into the nursing-home and put to bed. Mrs. Capsoni sent for Harris—but Harris would not come. . . .

Why did he stay away? There was every reason why he should have fallen into the trap. Mr. Crocker was confident that the Capsonis had taken all precautions against being seen by the gang when they visited him, and that the whole investigation was still unknown to everybody except his own partners, his confidential secretaries, a few insurance chiefs, and Captain Miles, the head of the Salvage Corps—all of them obviously persons beyond suspicion. Be it remembered that even Scotland Yard had no inkling of what was going on. And yet Harris seemed to have been warned against the trap that had been set for him. Who had warned him? This was a perplexing question.

Another thing that perplexed Mr. Crocker was that he was being shadowed when he walked through the streets. Possessing the clean conscience which only lawyers nowadays can boast, he could not imagine that anybody was interested in his movements except Leopold Harris and his associates in crime. It certainly appeared as if Harris must know what was in the wind, but, try as he would, Mr. Crocker could not see where Harris got his information. In any case, to make certain that his investigations were not ruined at this late stage, he placed a guard over his offices night and day to prevent any attempt to purloin or damage his records, while photographic duplicates of every important original were stored in a Safe Deposit and another set elsewhere.

He and Mr. Roland Oliver, K.C., who had now examined the evidence, were satisfied that the case against Harris was both as complete and as much simplified as it could ever be, and the solicitor reported this to his insurance backers. He was authorized by them to get in touch with the Director of Public Prosecutions, with a view to instituting the prosecution of Harris and other individuals whose complicity had been established through "Willesden Junction." Normally such a prosecution would have been conducted by the Director's own staff, but this particular

case, with its immense ramifications and technical complexities, set a new problem which was solved, however, in a simple but unprecedented manner. The Director of Public Prosecutions, Sir Edward Tindal-Atkinson, K.C., appointed Mr. Crocker, though a private solicitor, to be his Agent in the case and conduct it for him.

With the greatest secrecy—for there was still that mysterious leakage of information to be guarded against—an Information was sworn before Mr. Dummett and warrants were granted for the arrest of the following thirteen persons:

Leopold Harris,
David Harris, his brother,
Harry Gould, their brother-in-law,
Louis Jarvis,
Harry Priest,
Bernard Bowman, a silk-merchant,
Felix Bergolz, of the Poland Street bric-à-brac shop,
Mrs. Bergolz, his wife,
William Herivel, a seventy-year-old silk merchant,
Ernest Wolfe, a fishmonger's assistant,
Leonard Riley, a printer,
Bernard Marks, an electrician and tobacconist, and
J. L. Dywien, a furrier.

No sooner were the warrants obtained than Chief Inspector (now Superintendent) Yandell of Scotland Yard was selected to execute them by Mr. Crocker, in his new official capacity as Agent for the Director of Public Prosecutions. Such was the secrecy in which this part of the proceedings was conducted that for once Harris's "intelligence service" did not function: Chief Inspector Yandell sent out his subordinates with what were practically sealed orders and the arrests were effected swiftly and without a hitch.

It has been remarked that, just as in murder the chief difficulty is to hide the body, so in fraud the difficulty is to conceal the loot. Once the prisoners were in custody, Mr. Crocker and Chief Inspector Yandell were able to carry the investigations yet another stage farther by examining the prisoners' banking accounts. It was found that Harris had been so careless as to use Bank of England

"FIRE BUGS"



Photo : Planet News.

Leopold Harris (left), leader of the gang of fire-raisers who were put out of business by Mr. William C. Crocker, Lloyds' solicitor. Harry Priest (below), his subordinate, dressed as a fireman. Priest used this photograph as a humorous introduction to people whom he sought to interest in the activities of the Harris gang.



Photo : Daily Mirror

notes, sometimes to finance the dummy businesses of which he was the secret proprietor, and sometimes to divide the spoils among his fellow-conspirators and associates. He evidently was unaware that the number of every Bank of England note is taken by the bank which issues it to a client, and that, once this note is again deposited in a bank, its number is recorded against the name of the customer who "pays it in," while the note is then removed from circulation. Given, therefore, the number of a Bank of England note and the necessary access to the banking authorities, one can trace to whom this note was first paid when new and into whose hands it ultimately passed. It commonly happens that a five-pound note changes hands several times before it goes back into a banking account, but this is unusual with notes of a higher denomination; the result of the inquiry which Mr. Crocker, the Chief Inspector and their skilled assistants made into the history of no fewer than 26,000 Bank of England notes with which Harris and his friends had concerned themselves, demonstrated clearly that, like murder, "fraud will out" and that Harris had not solved the problem of hiding the loot. Some of these bank-notes told most interesting stories and provided damning corroboration of the Capsonis's confession. There could, moreover, be no doubt that Harris's "intelligence service" extended very widely and into very curious places.

To the thirteen original prisoners five more were added as the Police Court proceedings developed at Bow Street. They were:

Simon Wolfe, a silk-merchant and brother of Ernest Wolfe,
James Cross, another silk-merchant,
Victor Cope, a wireless dealer,
Walter Westwood, of the same trade, and
Adam Loughborough Ball, a claims assessor.

All eighteen were duly sent for trial by Mr. Dummett and, with his investigations at last complete, Mr. Crocker set about the task of preparing for the Old Bailey ordeal. He was heartened by the fact, which may not have been wholly due to chance, that Mr. Justice Humphreys, the Judge with the widest criminal experience on the Bench, had been appointed to try the case. There were still considerable technical difficulties in the path of the prosecution. It was necessary to bring vast numbers of documents to the court

in their filing-cabinets and, in order to minimize delay, it was essential that these should be instantly available. The authorities at the Old Bailey placed a room at the solicitor's disposal, afterwards adding two others, but they were shocked at the suggestion that he should be provided with a telephone beside his seat, through which he could communicate with his staff in the rooms upstairs, with his office in Bucklersbury, and with the outside world generally, in case anybody or anything was urgently required in court.

Eventually the proposal was put personally to Sir Travers Humphreys, who instantly decided in favour of the proposal and who, in the course of the trial, had an opportunity to test its efficacy for himself. A witness had given evidence and was released by the Judge from further attendance as being no longer needed. Unfortunately for him, one of the defending counsel raised a point on which the witness might have been, but was not, questioned. The Judge asked Mr. Crocker to send for him. No sooner said than done: the solicitor called the witness's City office through the telephone—which, though correctly described as a "whispering telephone," was nothing else than an ordinary Post Office instrument with specially powerful batteries and a tuned-up microphone —and learned that he had gone away to his house at Bognor. A further telephone-call elicited the fact that he was actually bathing in the sea. Such was the manner in which this prosecution was conducted, however, that, five minutes later, the witness's housemaid walked down the crowded beach till she saw her master in the water, called him out, waited while he dressed, and then led him to a waiting motor-car (also ordered by telephone, and even equipped with a packet of sandwiches for the witness's luncheon) which carried him to a fast train for London: he was met at the terminus by a Scotland Yard "flying squad" motor-car, decanted at the Old Bailey, and put back in the witness-box almost before the salt water was dry on him!

Another innovation was an arrangement by which two of the defendants who were very deaf, Bergolz and David Harris, were provided with ear-phones connecting them with the Judge, the witness-box and Counsel's bench. This also saved time.

All this striving for speed was required because, even in the most favourable circumstances, the trial was certain to be very long

while there was a perpetual danger that one of the jury might be taken ill and so cause a re-trial or that some other unforeseen accident might happen. It was the summer holiday season, and the weather was extremely warm. Though the brief for the prosecution was nearly two feet in height, Mr. Roland Oliver managed to compress his masterly opening speech into three hours. There were innumerable counts against the prisoners, and the jury were provided with a chart on which to record their verdict in each individual case. Capsoni was, of course, the most important witness for the Crown, and all his statements were corroborated by the innumerable documents which were hurried into court at a word through the "whispering telephone." No charge was preferred against him or his wife, in consideration of the evidence they had provided against the others. The defendant Dywien also was allowed to exchange the dock for the witness-box, as his evidence was extremely valuable.

Early in the trial the prisoners began to give way. Bergolz, for example, pleaded guilty on some counts, and at once the case against his wife was dropped and she was released. Soon Harris himself saw that the game was up, and he pleaded guilty on twenty-five counts. Many of the others followed these examples, but still the case had to go on.

Mr. Justice Humphreys's summing-up lasted for no fewer than thirteen hours, even though it was a masterpiece of compression and clarity. None of the jury at any moment of it relaxed their attention or showed themselves unable to follow him. Once again he demonstrated his remarkable capacity for putting himself in the jurymen's place and presenting complex facts to them in precisely the manner which would best make them understand the significance.

In the end, on the thirty-third day of the trial, the jury found that the guilt of all the prisoners was proved, and the Judge passed sentence. He gave Leopold Harris the maximum term of fourteen years' penal servitude. Harry Gould was sent to jail for six years, having received an allowance of four years for assisting the Prosecution to secure the conviction of Loughborough Ball, the dishonest assessor. David Harris was sentenced to five years' imprisonment, and the others to terms ranging from three and a half years down

to four months—the lowest sentence going to Westwood, who had received head injuries in the War and might therefore be supposed, the Judge said, to be not fully conscious of what he had been doing.

None of the men appealed against their sentences.

When the trial was at last over, Mr. Justice Humphreys received compliments both from the jury, which was a notably intelligent one, and from the counsel engaged in the trial. The foreman thanked him for his courtesy and consideration towards them, and the barristers, who included his son, Mr. Christmas Humphreys (briefed for Priest, who was sentenced to three years), presented him with a silver inkstand with similar compliments. The Judge thanked the jury warmly for their services, and excused them from further service for the rest of their lives, unless, as he added with a smile, "Any one of you has a yearning to perform it again." There were three women among them, to whom—and to Mrs. Crocker—he sent down the nosegays which, by a survival of the old custom of providing flowers to protect the Bench from the stench and infection of prisoners newly brought from jail, lay on his desk.

Still one great mystery remained unsolved. How had Harris known that the investigations were going on? Who had warned him against falling into the trap laid for him at the nursing-home after Capsoni's sham accident?

One morning after the arrests Mr. Crocker received a visit from Captain Miles, the head of the Salvage Corps and one of the few people sharing the secrets of the investigation. Miles told him, in confidence, that he had had financial dealings with Leopold Harris, who had guaranteed a banking account for him for a thousand pounds. In that moment the solicitor's eyes were opened at last, and he knew that Miles was the man he was looking for!

Strangely enough, the ramifications of Harris's several banking accounts had not revealed the existence of his guarantee for Miles, but the latter doubtless realized the peril of discovery—a very possible one—and thought it best to be first in the field with this astonishing information. Mr. Crocker insisted on being released from secrecy and informed Mr. Roland Oliver. There was soon no doubt but that Miles had been in Harris's pay from an early stage, and that it was through him that the news of the inquiries—and of the nursing-home trap—had reached "The Prince." The

reader may now be able to picture Miles's feelings on that fateful afternoon when the repentant Mrs. Capsoni was sent to him from the insurance company and he was obliged to send her on to Mr. Crocker! Miles must have felt like murder.

He was arrested in November 1933 and put on trial for conspiracy, with another penitent in the person of Leopold Harris as the principal witness against him. Miles pleaded Not Guilty and said that he had been driven to take money from Harris because of financial difficulties due to Stock Exchange losses. He also claimed —what was more certainly untrue—that he had never given Harris accurate information. The jury did not accept Miles's story, and he was sentenced to four years' penal servitude.

In one sense the Harris case is not over yet. Only two or three people know how many other prisoners might have stood in the dock with Leopold Harris, had it not been essential to keep the proceedings within practicable proportions and to make the trial as short as possible. The process of removing corrupt individuals out of public and private services is always a slow one, and it may be an error to suppose that all Harris's tools have yet been dislodged. It is certain that hundreds of men, not all of them in minor positions, were acutely uncomfortable while the case was being tried. I should not even care to say that arson or the other forms of swindling insurance companies on a large scale have ceased to be practised. Leopold Harris's own estimate is that at least half the fire claims made on these companies are fraudulent in some respect or other, and those best able to judge do not criticize his figure. But one must allow that Mr. William Charles Crocker, by taking a chance and combining pertinacity with good luck, did the country a very great service by performing what must be regarded as the most sensational feat of private detection in our history.*

The reader might at this stage of the book have drawn the wholly incorrect conclusion that Mr. Justice Humphreys tries only criminal cases. On the contrary, he has also been a conspicuous success as a civil Judge, even though, as an advocate, his work

* The runner-up is doubtless the solving of the Cammi Grizard pearl theft, described in a previous chapter, which was also mainly due to unprofessional detectives. But neither the stakes involved nor the magnitude of the operations can compare with the circumstances of the detection of the arson gang.

was chiefly criminal. Departing for once from the strict chronological order which has been mainly adhered to in these pages, I pause to describe three of the principal civil cases which he has tried.

First, there is the case of Cooper *v.* Swadling, which he tried in 1929 at Cambridge and which is to-day a leading authority on a vexed question of the law of negligence. His decision was, at first, set aside by the Court of Appeal, but in their turn the House of Lords reversed the judgment of the Court of Appeal and restored Sir Travers's. The matter at issue is one which to-day, with the increasing use of motor-cars and the consequent increase of accidents in which they figure, concerns the general public more closely and more often than perhaps any other aspect of the law of negligence.

It all began on 18th July, 1928, when a motorist named Swadling was driving his motor-car from Newmarket to London at a speed stated to be between thirty and thirty-five miles an hour and at about three feet from the near side of the road. Cooper, a motor-cyclist, was riding towards Cambridge from Saffron Walden at a speed said to be ten miles an hour. Their machines collided at the junction of the Cambridge–London, Newmarket–London and Saffron Walden–Cambridge roads. Evidence was given that the road along which the motorist, Swadling, was driving was about eighteen feet wide, with a grass verge; that Swadling sounded his horn at the approach to the cross-roads; that nobody heard Cooper sound the horn of his motor-bicycle; that the two machines were about eleven yards apart when Swadling first saw the motor-bicycle and put on his brakes; and that, after the collision, the car stopped about thirty yards further on, and the motor-bicycle about twenty yards. Cooper was killed, and his widow brought an action against Swadling, the motorist, for negligence in that he had driven at an excessive speed, failed to give proper warning, not slowed down on approaching a cross-road, not kept his car under proper control nor so steered and braked as to avoid the collision. In reply to this, Swadling's counsel submitted that the dead man had contributed to the accident by his own negligence.

Those were the facts, and here is the salient part of Mr. Justice Humphreys's presentation of the law to the jury. "If you find,"

he told them, "that the injuries from which Cooper undoubtedly suffered were not caused by negligence on the part of the defendant, then there is an end of the case, because you must find a verdict for the defendant, inasmuch as the plaintiff has to satisfy you that she is entitled to damages: the onus is on the plaintiff. Then there is another possibility. Supposing you find that the defendant was negligent and that it was to some extent his negligence which caused the injuries from which the deceased man died: if you should come to the conclusion that it was substantially owing to the negligence also of the deceased man himself that the accident occurred, so that both parties were, I will not say equally, but substantially to blame for the accident—then again you must find a verdict for the defendant, because the law is that, even if you are injured by somebody else's negligence, yet, if you substantially contribute to your injuries by your own negligence, you cannot recover damages from the other person. That is the issue you have to try.

"You have got to consider, first of all, whether you are satisfied that the defendant was negligent, and negligent in such a way as to cause the collision which caused the injuries. If so, are you of opinion that the deceased man was guilty of contributory negligence?"

The jury retired to consider their verdict on this footing, but returned after some time to ask the Judge for help as to what constituted "substantial contributory negligence," This was a difficult question because, as he pointed out, it was the very question which the jury had to decide. He did, however, explain that it would not constitute contributory negligence on the part of the dead man if he merely failed to do the absolutely right thing at the moment: it involved, the Judge added, a common-sense answer to the question, "Were they both to blame?"

Counsel for Mrs. Cooper then asked, "Does not this element enter into it: who was guilty of the *last* act of negligence?" To which the Judge replied, "Not necessarily. The point is: whose negligence was it that substantially caused the injuries?"

The jury then quickly returned again with a verdict for the defendant motorist. On appeal by Mrs. Cooper, the Court of Appeal ordered a new trial on the ground that Sir Travers ought to

have directed the jury in the following plain terms: "If you think that the plaintiff was negligent, but that the defendant, after the plaintiff was negligent, could have avoided him by taking reasonable care, such negligence by the plaintiff is not, as a matter of law, negligence which contributed to the accident so as to prevent the plaintiff from recovering." These were the words of Lord Justice Scrutton, and Lord Justice Greer, another member of the Court, said that he could not improve on them. The Court held that the omission of such a direction to the jury might have misled them to such a degree that the verdict could not stand.

It was now the turn of the defendant to appeal to the House of Lords against the decision of the Court of Appeal. The facts were again set out—Mr. Justice Humphreys's statement of them at the original trial being accepted by both parties as correct—and the points of law argued. The opinion of the Law Lords was given at last by Lord Hailsham, reversing the judgment of the Court of Appeal and restoring that of Sir Travers. In the course of his speech Lord Hailsham said that the law of collision cases had long been settled and, in order to succeed, the plaintiff must establish that the defendant was negligent and that the latter's negligence caused the collision. If it appeared, however, that the plaintiff could have avoided the collision by the exercise of reasonable care, then his case failed because the injury was due to his own negligence in failing to take reasonable care. If, again, it was found that the plaintiff was negligent but the defendant could have avoided the collision by the exercise of reasonable care, then the plaintiff is entitled to recover damages, since the resultant injuries would be due to the defendant's failure.

But mere failure to avoid a collision by taking some extraordinary precaution, Lord Hailsham went on to say, does not constitute negligence. A plaintiff cannot complain if, "in the agony of the moment"—this has now become a catch-phrase at the Bar—the defendant fails to take a step which would avert the collision, unless this step is a reasonable and ordinary one.

Lord Hailsham then discussed some of the leading cases which established the general principles he had just set out, but, he said, a discussion of these by the Judge at the original trial would inevitably have tended to confuse and bewilder the jury. A Judge's

direction should be adapted to the special circumstances of the case he was trying, and should expound only that part of the law of negligence which was essential to the point at issue. In this present case it was admitted by all parties that only one second elapsed between the appearance of the motor-bicycle and the collision: in that second the defendant applied his brakes, though he did not—as the plaintiff's counsel had suggested at the trial that he ought to have done—swerve out into the middle of the road. The second's interval, Lord Hailsham pointed out, was so short that there was actually no time for the defendant to avoid the accident and, therefore, any question of the law relating to who had the last opportunity to avoid it did not apply to this case. The jury's verdict, he concluded, might very well mean that, in their view, each party's negligence had contributed to the accident: the defendant motorist by approaching the cross-roads too swiftly, and the motor-cyclist by the manner in which he came out of the by-road. In any case, Mr. Justice Humphreys's summing-up was correct and sufficient, because he had told the jury to what considerations they must apply their minds and had set out the law actually relating to those considerations.

This decision of the Lords, which restored the original judgment of Sir Travers, has been much criticized—by, among others, the late Lord Justice Scrutton, one of the Court of Appeal who set aside the original verdict—on the ground that it depended to some extent on the Lords' opinion that a motorist travelling at thirty miles an hour cannot be expected to swerve sufficiently to avoid a collision with somebody ten yards away: this, say the critics, is a finding of fact and not of law, whereas it is the province of the Lords, as of the Court of Appeal, to decide principles of law only. Suppose the alleged fact is contradicted—or had been by the jury concerned—then, it is argued, the question is re-opened as to who had the last chance of avoiding the accident and the law on that point too ought to be set before the jury.

But I think that many readers will already find it hard enough to disentangle the various interesting points raised by Cooper *v.* Swadling without my raising fresh ones.

The second civil case that I propose to describe from Sir Travers's experience on the Bench is that of the Mitcham Urban

District Council *v.* Seale: it was heard in the King's Bench Division on 13th June, 1933, and has been ever since the leading case on a vexed and vexatious question of public amenities. Everybody who visits the suburbs or the country knows that in recent years there have arisen numbers of so-called "caravan camps," wherein numbers of converted tram-cars, omnibuses and even railway carriages serve as permanent or week-end residences for large numbers of people. In many districts their owners and tenants avoid complying with the local building by-laws or paying rates on the ground that these "caravans," being provided with real or dummy wheels, are liable to be moved away at any moment; while their occupiers endeavour to escape other dues on the ground that they are permanently installed. Until recently the caravanners have had things all their own way: the law was ambiguous and obscure, while public opinion, always sentimental and usually wrongheaded, was opposed to any apparent unkindness towards the caravanners, who were quite wrongly supposed to be delightful nomads with a passionate love for the simple life.

In the spring of 1933 the Mitcham Urban District Council at last lost patience and brought an action against a Mrs. Mary Seale, the occupier of some land on which a number of converted tramcars and omnibuses had been placed and were being used as dwellings. They had been there for some time, but no plans had ever been submitted in regard to them to the local authority and they lacked decent sanitation. The Council asked Mr. Justice Humphreys for a ruling that they were "temporary structures" and might therefore (in accordance with section 27 of the Public Health Acts Amendment Act of 1907) be summarily pulled down or removed by the local authority. Against this, Mrs. Seale's counsel submitted two arguments. First, he said, the Act to which the plaintiffs referred enabled action to be taken against only the erecter or the owner of an alleged "temporary building," and Mrs. Seale was merely the occupier of the land on which they stood: so that no action should be taken against her. And, secondly, he argued that these caravans, railway-coaches, etc., were not "temporary buildings" within the meaning of the Act.

Sir Travers dealt with both these submissions in a common-sense manner. The very fact that these vans had been lived in for some

time by a number of people was an excellent reason why the local authority should interest itself in them, "because, with the advance of science and sanitation, methods of dwelling which were regarded as satisfactory in the time of our ancestors are no longer to be regarded as satisfactory at all. . . . People who are made to live like pigs can be expected only to behave like pigs." It was therefore, the local authority's duty to prevent people living in unhealthy and degrading conditions. "If the Council satisfies me that it is entitled as a matter of law for the declarations for which they ask, they have also satisfied me that this is a case where I ought to exercise my discretion and where it is eminently desirable in the public interest that such a state of things shall cease."

On the matter of law, namely, as to whether an order could be made against Mrs. Seale, who was admittedly not the actual erecter or owner of the caravans, the Judge agreed that he had no power to make an order against her for any expense incurred by the Council in pulling down or removing them, but this did not in the least diminish the right of the Council to take such action. She had, however, "assumed dominion" over the place where they stood and she was the person who protested against their removal, so that he held that the Council was justified in making her the defendant to the action.

In regard to the second submission—that the caravans were not "temporary buildings"—he held there was no doubt at all but that they were "temporary." He then gave judgment for the Council.

The effect of this judgment has been far-reaching. It has saved local authorities from the danger of embarking on litigation (as a preliminary to removing caravans, etc. from places within their districts) which might prove abortive for either of the reasons urged by Mrs. Seale's counsel. As a result, local authorities who are alive to the undesirability of these caravan colonies can now take action without any fear of stumbling over awkward legal technicalities. At the moment of writing, for example, the Dorking Urban District Council has been encouraged by Mr. Justice Humphreys's judgment to begin sweeping away the horrible collection of sheds, vans and tram-cars which for so long have disfigured the top of Box Hill, and it is not beyond the bounds of possibility that similar action will soon be taken by other suburban Councils

whose town-planning schemes have been rendered ridiculous by the existence of other caravan colonies which, profiting by the former obscurity of the law, have grown up in despite of all building and planning regulations.

The third civil case to be described—Rose *v.* Ford—is one which excited considerable public interest as the "expectation of life case." The Court of Appeal affirmed Sir Travers on the main point involved, and his judgment has thus become the leading authority on an important matter of recoverable damages. It happened like this:

Mabel Alice Rose, a young woman of twenty-three, was the passenger in a motor-bicycle side-car on a journey from Cheltenham to Evesham in August 1935. A collision occurred between the motor-bicycle and a motor-car driven by a man named Ford. The fault was Ford's, and as a result Miss Rose's leg and thigh were badly fractured. Gangrene set in two days later, and the leg was amputated; the operation, however, was unsuccessful, as the infection had already spread over her body, and two more days later she died. Her father then brought an action, as administrator of her estate, against Ford. His claim for damages was made partly under the Fatal Accidents Act of 1846–1908 for the benefit of her dependants, and partly under the Law Reform (Miscellaneous Provisions) Act of 1934 for the benefit of her estate. Under the latter Act the claim came in three ways:

(1) for the damages which she could have recovered, had she survived, for pain and suffering;

(2) for damages for the loss of her leg; and

(3) for damages which she could have recovered for the probability that her life would be shortened by reason of the injuries. (This last was in accordance with a principle declared a few months previously in the decision in Flint *v.* Lovell.)

Mr. Justice Humphreys awarded the plaintiff, her father, £300 for damages under the Fatal Accidents Act of 1846–1908, a liability which the defendant motorist admitted. As regards the further claims made under the 1934 Act and set out under three sections above, the Judge held that her father was entitled to

recover damages for the benefit of the estate in respect of the claim for pain and suffering, but, Sir Travers said, such damages must be limited to the four days in which she lived after the accident, and, as she was unconscious most of this time, the amount must be very small. As regards the claim for the loss of her leg (the second action above), the Judge said that the permanent loss of a limb had always been regarded by the law as a great deprivation and a ground for substantial damages: he therefore awarded the father £500, which sum, he remarked, was to include a sum in respect of the "pain and suffering" already mentioned.

The third portion of the claim, however—that in respect of loss of a "reasonable expectation of life"—he rejected, on the ground that there was no evidence that the girl had endured mental suffering on this account: such mental suffering, he thought, was the basis of the decision in the case of Flint *v.* Lovell, the authority on which he was being asked to act.

Both sides appealed against this judgment. The defendant appealed on the ground that the Judge was wrong in allowing any damages for pain and suffering or for the loss of the limb, because the girl was admittedly unconscious of all these things for most of the short time she survived the accident. The plaintiff appealed against the Judge's refusal to award damages for the diminution of the girl's "expectation of life." The Court of Appeal unanimously allowed the defendant's appeal, and reduced the damages from £500 to £22—this sum representing £20 for the pain and suffering, and £2 for the loss of the leg for two days! The Court pointed out that Mr. Justice Humphreys had estimated the damages for the loss of the leg (most of the £500) on the assumption that the girl would live a natural life as a one-legged woman: but in fact she lived in this condition for only two days, and was therefore entitled only to nominal damages in respect of it.

The more important question of the appeal, however, was the plaintiff's appeal in regard to his daughter's "expectation of life," and here the Appeal Court was divided. A majority, consisting of Lords Justices Slesser and Greene, upheld Sir Travers's decision; Lord Justice Greer dissented from it. Lord Justice Slesser, it is true, did not agree with Sir Travers's reason for dismissing the claim. In his view, he said, the claim did not depend on any mental

disquiet which the victim might or might not feel, but simply on the actual shortening of the normal expectation of life: therefore, while a *living* person could bring such an action, a *dead* person, having no "expectation of life," had no right of action and, in consequence, none to which her administrator could succeed. Lord Justice Greer, on the other hand, said that the Act of 1934 had made a very considerable alteration to the law by stating that all causes of action subsisting at the death which were vested in the deceased should survive for the benefit of the estate instead of dying with her. In his view, he went on, the cause of action was the negligence of the defendant which had caused damage to Miss Rose, and the deceased—and, therefore, her representatives after her death—were entitled to recover in respect of *all* the items of damage, it being impossible to draw a distinction between these items. Deprivation of the opportunities of working and enjoying the normal period of life was one of the elements of damage, and it ought, Lord Justice Greer thought, to be assessed at the sum of £1,000. Since, however, the third Judge agreed with Lord Justice Slesser, Lord Justice Greer's view was overborne, and Sir Travers's original verdict on this question of the "expectation of life" claim was upheld.

And now, doubtless to the relief of lay readers, we will return—for our two final cases—to the more familiar sphere of Sir Travers's criminal cases.

A man appeared before him in May 1935, of whom the Judge said, "I suppose no man ever stood in a dock, or sat on a jury, or presided over a Court of Justice, who had a more exemplary character than the prisoner in this case." Yet this prisoner was charged with a murder to which he had confessed. He was a seventy-one-year-old printer, William Rourke, and the money for his defence was subscribed by the members of his occupation.

It was an extremely sad case. Mrs. Rourke was found strangled in their house at Peckham, and her husband confessed that he was responsible. The evidence showed that he had always been a devoted husband, whereas the dead woman had not been worthy of him: as he told the Court, she used to pawn everything in the house and buy drink with the money. Then she had an accident, and he gave up an excellent post and looked after her day and night for

years. One morning, he was taking her a cup of coffee which he had made for her, when he happened accidentally to knock against her foot. She began to storm at him and call him names. "It was to stop her," he said, "that I pushed her back, and it only seemed a short period before I realized that she was gone."

The Judge told the jury that it was the most painful case he had ever tried and added the remarkable tribute to Rourke mentioned above. The jury found him not guilty of murder, but guilty of manslaughter, "with a very strong recommendation to mercy." Mr. Justice Humphreys gave effect to this recommendation by sentencing Rourke to only four days' imprisonment, which meant that he was instantly released.

Three days later in the same court, Mrs. Alma Rattenbury and George Stoner appeared before him, charged jointly with the murder of the former's husband.

The dead man, Francis Rattenbury, was a retired architect, sixty-seven years of age. His wife, a Canadian by birth and a musician of considerable talent, was thirty-eight; while their chauffeur and odd-job man, Stoner, was only eighteen. Rattenbury was found in his house at Bournemouth in March 1935, suffering from severe injuries to his head, from which he soon died. The police were called, and Mrs. Rattenbury confessed to them that she had killed her husband in a fit of temper. A day or two later, the police arrested Stoner also, but he said that he alone had committed the crime and that Mrs. Rattenbury knew nothing about it. Thus the police were faced with the fantastic situation in which two suspects, either of whom had the opportunity (and, as it appeared, a motive) for murdering the dead man, each claimed to have done the crime and exonerated the other. The situation grew even more complicated as it went on.

It was found that Mr. and Mrs. Rattenbury had been married about seven years, both having been married previously, and had lived fairly comfortably together, though quarrels were not infrequent. Rattenbury was known to have threatened suicide, but his injuries were not consistent with being self-inflicted. It was soon discovered that Stoner, the chauffeur, who lived in the house, was on terms of considerable intimacy with Mrs. Rattenbury. Indeed, both appeared greatly in love with each other and, according to her

story in court, they were not obstructed in any way by her husband, who had told her to "live her own life."

Four or five days before the attack on Rattenbury, whom they called "Rats," she and Stoner secretly spent a night together at a hotel in London. This visit, which had also as its purpose the buying of clothes for Stoner, was mentioned by the prosecution as an indication that, despite Mrs. Rattenbury's account of her husband's complaisance, the lovers were not really satisfied with the relationship as it existed at Bournemouth. On their return home, they found the husband depressed about a housing speculation in which he was concerned at Southampton: to cheer him up, the wife had tea brought to her bedroom and invited him to drink it with her there. This unusual condescension, however, was not wholly effective, for Rattenbury, according to his wife's story, remained in a state of depression and read a passage to her from a book about a man who was not afraid to commit suicide when he found that he had lived too long. Rattenbury, she said, expressed admiration for the man's good sense.

Further to enliven him, she suggested that the two of them should make a trip to London next day, but he did not want to go. He at last agreed, however, to an alternative proposal that they should go to stay together at a friend's house at Bridport. She went to her bedroom to telephone about the necessary arrangements, and Stoner came in, extremely angry that she had spent the afternoon in the same bedroom as her husband and with the door closed. The idea also of the Rattenburys going together to Bridport infuriated him. He said he would kill her if she went, but appears to have calmed down when she assured him that she and her husband would not share the same bedroom.

Mrs. Rattenbury in court no longer held to her original story that she had killed her husband. She now said that, at half-past nine the same night, she kissed her husband good night and went to bed. Stoner arrived later in such a state of agitation that she insisted on knowing what was the matter with him. He told her that she would not be going to Bridport next day after all, because he had just hurt "Rats," hitting him with a mallet. This seems to have suggested nothing to her until she heard a groan coming from downstairs and, running there, found her husband wounded and

huddled in a chair. She felt so sick at the sight, she went on in evidence, that she drank an amount of whisky and screamed for the maid, but, apart from wrapping a towel round her husband's head, she said, she remembered nothing else.

The Judge asked her if she was sure, then, about her memory of the conversation with Stoner, and she answered that her recollection of what had happened at that time was perfectly clear.

The doctor who had been called to the house corroborated her story to the extent of saying that, on his arrival, he found her wildly excited and obviously drunk. He gave her morphia and sent her to bed, but she came down again and told the police, who had now taken charge, that she suspected her husband's son, by his previous marriage, of having murdered him. The Judge again interposed at this point, to make it clear to the jury that this was said by her when she was under the influence of drink and morphia.

The maid also confirmed part of her story. Hearing Mrs. Rattenbury call her, she said, she ran downstairs and found her mistress in a terrified state, raving and drinking one glass of whisky after another. By the time the police arrived, said the maid, Mrs. Rattenbury was hysterical and tried to kiss them.

Mr. Justice Humphreys questioned the maid closely as to whether her mistress was in the habit of taking drugs—"things like cocaine, morphia or heroin." But the witness denied the suggestion as also did Mrs. Rattenbury. The doctor, too, said that he had never seen the slightest sign that she was a drug addict. Again answering the Judge, however, the maid said that Mrs. Rattenbury occasionally drank more than was good for her: this, incidentally, was admitted by the woman prisoner, who excused herself for it by the dullness of her life with her husband.

The police arrived at the house about two o'clock in the morning, but were told by the doctor that Mrs. Rattenbury was not in a fit state to make a statement, being full of whisky and morphia. Shortly afterwards she told the inspector that she would let him know in the morning where the mallet was, and that she would make a better job of it next time—thus implying that she had attacked her husband. She then slept for a while, and, when she woke, was given a cup of coffee before making a written statement to the police: this was that, at nine o'clock on the previous evening,

as she was playing cards with her husband, he had dared her to kill him and she hit him with a mallet. "I would have shot him if I'd had a gun," she added. Later still, at the police station, she repeated that she had done the crime.

While it must have been reasonably clear that none of her statements was reliable, in view of her temperament and the effects of the whisky and morphia she had taken, it was nevertheless necessary for the Court to examine the plausibility of her written confession. The doctor said that he considered her incapable of making any proper statement at the time; the maid declared that her mistress could not even hold the saucer when they brought her coffee and could only drink after a fashion. In view of this evidence about her condition, Mr. Justice Humphreys directed that the jury should be shown specimens of her handwriting in her cheque-books to compare with the writing of the statement given by her to the police that morning.

The police-inspector thought her to be normal at noon, but, against this, the medical officer at Holloway Prison, who saw her three days later, reported her as being still under the influence of drugs. In court Mrs. Rattenbury said that she could not remember making any statement or confession to the police or anything at all connected with their visit to her house. Nor was there anybody else to corroborate her stories of the crime, for her husband was dead and Stoner did not go into the witness-box to give evidence.

The wretched youth pleaded not guilty, but his counsel suggested to the jury that the proper verdict against him might be guilty but insane. The Judge remarked at once that he would direct the jury to judge the case on the evidence and to disregard this half-admission of guilt by Stoner's counsel. Two doctors were called on Stoner's behalf, one of whom said that the boy's appearance was consistent with his being addicted to cocaine, and added that a common symptom of cocainism was the carrying of weapons. It had already appeared in evidence that Stoner habitually carried a dagger. The other doctor stated that a very general result of the cocaine habit was jealousy: though Rattenbury was not Stoner's rival, he might well have been an object of the boy's diseased hatred.

When found by the police, Stoner was sitting in a motor-car



SIR TRAVERS HUMPHREYS ENTERING THE OLD BAILEY

for the trial of Alma Rattenbury and George Stoner for the murder of the former's husband. The jury acquitted Mrs. Rattenbury, who committed suicide a few days later ; Stoner was sentenced to death but reprieved.

Photo : London News Agency.

outside the house, apparently asleep. Later he made a statement to them denying any knowledge of the assault on his master, but, when he was arrested and cautioned, he said, "I did the job. I believe he was asleep. I hit him, and then went upstairs and told Mrs. Rattenbury."

The family doctor stated in evidence that he believed Stoner to have been taking cocaine for some months and to have threatened Mrs. Rattenbury with violence during that period: she did not appear to be frightened of him, though she had asked the doctor to warn him of the dangers of drug-taking. Stoner's counsel accepted her final account of the incidents of the night of the murder, but submitted that his client's assault on Rattenbury was like the impulsive act of a child and that his mind was incapable of forming the necessary "intent" which would make the crime one of murder.

When Mr. Justice Humphreys summed up, he said to the jury, "You have listened now for five days with exemplary patience and, I have observed, with the closest attention to a case in which a large number of matters have been referred to and discussed, some of which may be described now as being on the outside edge of the case." Referring to the woman prisoner, he said, "It may be that you will say you cannot possibly feel any sympathy for this woman, that you cannot have any feeling except of disgust for her. I know that you will not let this prejudice you against her; but beware that you do not convict her of this crime with which she is charged because she is an adulteress—and an adulteress, you may think, of the most unpleasant type." In regard to Stoner, the Judge commented on the fact that he had not gone into the box to give evidence and face cross-examination. Then he said, "It is a pitiable thing that he, at the age of eighteen, should have been brought to this pass, and I do not think I am putting it too unfairly even against her when I say that, whatever your verdict may be, his position is due to the domination of this woman."

Since Stoner had been in prison, the Judge went on, he had given no reason for supposing that he was other than a perfectly healthy person, nor had he shown any of the signs which are supposed to follow the sudden cessation of cocaine-taking: moreover, he had incorrectly described cocaine as a dark-brown powder. There was, therefore, no evidence to support the suggestion of

his counsel that, at the time of the fatal blow, Stoner was under the influence of the drug and incapable of knowing what he was doing. The question which the jury must decide was this: Did they find the slightest justification for saying that, when Stoner struck Rattenbury, he did not know what the effect was likely to be? Was he so drunk with cocaine as to be incapable of framing an intention? This, said the Judge, the jury must answer for themselves.

Mr. Justice Humphreys then set out the law relating to persons charged together with a felony of this kind. He explained that it was unnecessary, to establish their guilt, that persons aiding and abetting a crime should be present at the actual moment of the deed. Nor did it matter whose hand struck the fatal blow, if both had agreed that it should be struck. At the same time, the Judge pointed out, both the accused had separately affirmed and denied their part in the killing of Rattenbury.

The jury, consisting of ten men and two women, were absent less than an hour before bringing the generally anticipated verdict of not guilty against Mrs. Rattenbury, and guilty against Stoner with a recommendation to mercy. The woman prisoner was then discharged and Stoner sentenced to death.

This was by no means the end of the story. Sentence of death was passed on Stoner on a Saturday, 1st June, 1935. On the following Tuesday the dead body of Mrs. Rattenbury was found in the river Stour, near Bournemouth, with apparently self-inflicted wounds. She had been taken to a nursing-home after her release, but left there on the Monday, against the matron's wish, in order, she said, to help to organize the campaign for Stoner's reprieve. She then wrote various letters, stating her desire to kill herself because of the verdict against Stoner. The coroner's jury returned a verdict of suicide while temporarily insane.

Stoner's appeal was lodged ten days after sentence was passed on him, and simultaneously a petition on his behalf, signed by over 300,000 people, was presented to the Home Secretary by the Bournemouth Members of Parliament.

The appeal was chiefly based on the argument that the joint trial of Stoner and Mrs. Rattenbury involved serious danger of a miscarriage of justice. Stoner, as a chivalrous young man, said Mr. Casswell, his counsel, was placed in a most awkward position,

since any point made by him or for him was bound to tell against the woman with whom he was in love. When the two prisoners were jointly indicted, the unusual situation had arisen in which each of them said, "I did it." Stoner, fearing to incriminate Mrs. Rattenbury, had not gone into the box. Further, much of the evidence which had been admitted against him at the trial would have been inadmissible if he had been on trial by himself. It was, added counsel, in the discretion of the Judge at the trial to grant or withhold separate trials of those indicted together; in this case, he suggested, Mr. Justice Humphreys ought to have ordered the two prisoners to be tried separately.

Counsel then asked leave to call Stoner as a witness, in order that he might give his account of what had really happened, seeing that the death of Mrs. Rattenbury freed him from the necessity of chivalrous silence. The Judges of the Court of Criminal Appeal, however, held that the "exceptional circumstances" which alone would justify calling before them a witness who had not been called at the trial, did not exist in this case; they therefore refused leave to call Stoner.

Mr. Casswell's final point was that Mr. Justice Humphreys had failed to put sufficiently forcibly before the jury the defence that Stoner was a cocaine-addict. The Judge had slurred over this part of the evidence, said counsel. Moreover, he went on, the defence of manslaughter, as opposed to murder, had not been put to the jury at all by the Judge.

The Lord Chief Justice, Lord Hewart, then delivered the judgment of the Court, which was that the appeal must be dismissed. He said that Mr. Justice Humphreys, who was a Judge of great experience in the criminal law, had decided that the trials of Stoner and Mrs. Rattenbury ought not to be separated. The Court of Criminal Appeal held that this was a matter for the discretion of the Judge, and that his discretion had been rightly exercised.

Dealing with the submission that Mr. Justice Humphreys had not done justice to the "defence of cocaine," the Court were of opinion, said Lord Hewart, that the Judge had treated this defence with almost excessive respect. And therefore the point about manslaughter, since it was really identical with the cocaine defence, had been treated with equal fairness. Finally, said the Lord Chief

Justice, it had been suggested that Mr. Justice Humphreys had not quite appreciated the evidence. "Anybody who is capable of believing this, is capable of believing anything," Lord Hewart commented emphatically.

Next day, however, the Home Secretary announced, in accordance again with general expectation, that he had recommended a reprieve for Stoner with a view to commuting his death sentence to penal servitude for life. And so this bizarre and horrible episode ended.

With it we may, for the time being, end this record of Sir Travers Humphreys's career. Though it is true that, in the short period which has passed since the Rattenbury–Stoner trial, he has presided over a number of other cases which contain features of unusual interest, it would not be proper to describe them at present. Later editions of this book may provide an opportunity to carry the story further.

Nor would it be proper to attempt any sort of appreciation of Sir Travers's services on the Bench, while he is still so active there: let us instead hope that the time is far distant when such a final appreciation is required. For the rest, let these pages tell their own story.

I may, however, be allowed perhaps to round off this chronicle with a thumbnail sketch of Sir Travers's chief characteristics as they appear to one of his colleagues after many years of acquaintance with him: "He has a quiet, dry humour, a pleasant laugh with a kind of cackle in it, a quick intelligence, and a willingness to accept information from any source, however unpromising. I suspect that his greatest defect is a well-concealed but very great tenderness of heart."

INDEX TO CASES

Adams, P. C., 26–7
Ahlers, Nicolaus, 95–7
Arnot, R. Page, 209–14

Bacon, Rev. Francis, 236–7
Baguley, Henry, 262–3
Ball, Adam Loughborough, 297–317
Bamberger, Thelma, 148–150
Barnes, 4–5
Barnett, Samuel, 46
Barney, Mrs. 281–4
Beale, Charles James, 281
Beauty Specialists' Dispute, 250–1
Beech, 226–7
Bell, Thomas, 209–14
Bennett, Berkely, 82–4
Benton, 268–9
Bergolz, Felix, 297–317
Bevan, Gerald Lee, 169–73
Billing, Noel Pemberton, 127–35
Bolton, Anne, 236–7
Bottomley, Horatio, 37, 88–94, 151–68
Boulton's Bank Case, 214–6
Bowman, Bernard, 297–317
Brown, Arthur, 220–4
Brown, Ernest, 293–5
Brown, Stanley, 280–1
Browne, Frederick Guy, 237–46
Bulteel, Frederick, 112–3
Bungay, Frederick, 280–1
Byron, Kitty, 15–6
Bywaters, Frederick, 173–80

Campbell, J. R., 208–14
Cant, Ernest, 209–14
Carsberg, Thomas, 236
Casement, Roger, 113–21
Charles, Yaroslav, 278–9
Chatterton, Edward, 135–6
Chung-Yi-Miao, 258–62
Church, 26–7
Church, Beatrice, 26–7
Clayton, P. C., 253–4
Cleobury, Christopher, 14–5
Cloete, Laurence, 7
Cooper *v.* Swadling, 318–21
Cope, Victor, 297–317
Crippen, Hawley Harvey, 46–52, 82
Cross, James, 297–317
Crossley, Henry, 251
Curley, James, 29–31

"D. S. Windell," 37–42
Dones, 220

Ellsome, Charles, 56–7

Fane, Captain, 23–4
Flugel, Anna Margareta, 7–8

Gallacher, William, 208–14
Glossop Slander Case, 267
Gould, Harry, 297–317
Greenwood, David, 123–6
Greyhound Racing Association Case, 227–230
Grimshaw, 44–6
Grizzard, "Cammi," 43–6, 70–8, 275, 317
Gutwirth, Leiser, 70–8

Hannington, Wal, 209–14
Hansen, George, 230–4
Harris, David, 297–317
Harris, Leopold, 297–317
Harrison, Alfred, 270–1
Hatry, Clarence, 7, 25, 217, 275
Herivel, William, 297–317
Hess, Henry, 34–7
Higgins, 44–6
Hobbs, William Cooper, 195–205
Hollington, Frank, 264
Holmyard, William John, 264–6
Hooley, Ernest Terah, 84–8, 159
Hughes, Mabel, 22–3, 52
Hume, George, 29
Hutchinson, R. H. P., 52–5

Inkpen, Albert, 209–214

Jarvis, Louis, 297–317
Jenkin, P. C., 26–7
Johnson, Jack, 57–61
Kennedy, William, 237–46
King, 38–42

Laceby *v.* Lacon, 19–20
Le Neve, Ethel (*see* Neave)

Lemoine, 27–9
Leonard, Frank, 220–4
Leslie, 24–6
Lloyd, Harold Montagu, 256–7
Lock, Frederick, 249–50
Lockett, James, 70–8

McCartney, Wilfred Francis, 230–4
McElwee, Andrew, 290
MacManus, Arthur, 208–214
Maples, 220–4
Marjeram, Albert, 269, 271
Marks, Bernard, 297–317
Martinucci, 277–8
Mayers, Colin, 234–5
Miles, Captain, 297–317
Mitcham U.D.C. *v.* Seale, 321–4
Murphy, J. T., 208–14
Murray, Henry, 134

Neave, Ethel, 47–52
Newton, Arthur, 50, 82–4

O'Brien, Art, 191–4
O'Dare, Josephine, 218–9
O'Reilly, 12–4

Parker, Mackworth, 112–3
Parrott, George Charles, 78–82
Paterson, Frank, 279–80
Paul, William, 224–6
Peach, Mackenzie, 54–5
Peach, Philip, 23–4, 52–5
Peel, Captain Owen, 184–9
Petersen, Frederick, 97–8
Petrou, Theodosios, 291–3
Pollitt, Harry, 208–14, 226–7
Priest, Harry, 297–317

Radford, John, 236
Ransome, 17
Rattenbury, Alma, 180, 327–34
Reubens, Marks and Morris, 31–4
Riley, Leonard, 297–317
Robinson *v.* Midland Bank, 195–202
Rogers, 17
Rose *v.* Ford, 324–6
Rose, Ronald, 235–6
Rourke, William, 326–7
Rouse, Alfred Arthur, 273–5
Rowlands, J., 257–8
Russell, Earl 14
Rust, William, 209–14
Rutherford, Colonel, 137–47

Saldanha, Martin Sebastian, 181–4
Sayers, 4–5
Scott, Lady, 14
Seddon, Frederick Henry, 62–70
Seed, Thomas, 97–8
Sexton, 26–7
Seymour, Owen, 219–20
Sharman, Charles, 205–7
Short, Leonard, 278–9
Short, Rolls, 17
Silverman, Simon, 70–8
Simms, William, 271
Sinclair, 220
Smith, George Joseph, 101–12
Stevens, P. C., 253–4
Stoner, George, 180, 327–34
Strudwick, 226–7
Stuart, Norman, 220–4
Symmons, Albert, 251

Tannen, 220–4
Tatham, W. F., 189–91
Taylor, George, 220–4
Thompson, Edith, 173–80
Thorpe, George, 6–7
Tollemache *v.* Tollemache, 5
Trubenbach, Gustave, 17

Wallis, 17
Warne, William, 269–70
Webber, 24–6
Weller, 17–8
Wellings, Edward, 22–4, 52
Wellings, Maud, 22–3
Wells, Bombardier, 57–61
Westwood, Walter, 297–317
Wilde, Oscar, 8–12
Wintringham, T. W., 209–14
Wolfe, Ernest, 297–317
Wolfe, Simon, 297–317
Woodman, Ellen, 98–101

Yellow, Marjorie, 255–6, 285–90